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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 139 OF 2010

Abdul Rasheed s/o Mohd. Yusuf,
Age: 70 years, Occu: Agril.,
R/o. Pimpri, Tq. Udgir,
Dist. Latur

..APPLICANT
(Orig.plaintiff)

VERSUS

1. Abdul Rahman s/o Yusuf Khan,
Age: 44 years, Occu: Service,
R/o. Parbhani at present Choubara Road,
At and post Udgir, Tq. Udgir,
Dist. Latur
at present "Riyadh" the Capital of
Saudi Arabia.

2. Uttam s/o Nivrati Patwari,
Age: 57 years, Occu: Agril.,
R/o At and post Pimpri,
Tq. Udgir, Dist. Latur

3. Mohammed Salim s/o Yusuf Khan,
Age: 47 years, Occu: Business,
R/o Choubara Road at and post Udgir,
Tq. Udgir, Dist. Latur

4. Syed Samad s/o Omar Hashmi,
Age: 47 years, Occu: Business,
R/o. Azad Nagar near Chalkot Road,
at post Udgir, Tq. Udgir, Dist. Latur

..RESPONDENTS
(Orig.Defts.)

Mr Afzal Hussain, Advocate for applicant;
Mr A. N. Sabnis, Advocate for respondent Nos. 2 to 4

CORAM : N.W. SAMBRE, J.

DATE : 19th July, 2017

ORAL ORDER

In Regular Civil Suit No. 115 of 2007, present applicant was plaintiff, in which an application Exh.79 moved by him for recalling the order of dismissal of

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suit against defendant No.1. Said application came to be rejected on 27th July, 2010, which order is questioned in this revision.

2. I am informed that Regular Civil Suit No.115 of 2007, which was re-numbered as Regular Civil Suit No.183 of 2012 is already decided on 20th February, 2016, against which respondents i.e. defendants in the suit are yet to receive any notices in appeal, if any, preferred by the applicant.

3. In the wake of above referred development, particularly having regard to the fact that the suit is already decided, the issue as to whether the suit was rightly dismissed against respondent No.1, by way of impugned order, could be one of the ground which could be decided by the learned appellate Court in an appeal, if any, preferred by the applicant-plaintiff.

4. As such, in my opinion, civil revision application rendered infructuous. Accordingly, the same is disposed of with liberty to the applicant-plaintiff to raise the issue as regards dismissal of suit against respondent-defendant No.1 in an appeal.

(N.W. SAMBRE, J.)

sjk