

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8915 OF 2012

TARABAI SANDU KHADE AND ORS
VERSUS
PRAKASH RAMRAO BODKHE

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Advocate for Petitioners : Shri S. S. Shinde
Advocate for Respondent : Shri Nitin T. Tribhuwan

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 01, 2017

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PER COURT :-

1. Learned counsel for the respondent submits, on instructions, that the respondent desires to withdraw Special Civil Suit No.8 of 2013 as he desires to pursue the remedy of execution of the compromise decree in RCS No.1328 of 1996. He further submits that the Spl. C.S. No.229 of 2011 which is withdrawn under order dated 5.10.2012, will not be restored and the respondent does not desire to seek such restoration.

2. Learned counsel for the petitioners submits that after the compromise decree, the respondent has sold several portions of the land to various persons and the execution proceedings, if initiated, would be a wasteful exercise. He further prays that all the contentions of the petitioners shall be kept open for the executing Court to consider.

3. Considering the above, the statement of the respondent is

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recorded that he would withdraw a Spl.C.S.No. 8 of 2013, within three weeks from today, failing which, the learned Court shall dispose off the said suit as withdrawn.

4. This petition, therefore, would not survive and is disposed off only on the statement made by the respondent recorded as above.

5. In the event, the respondent resorts to execution proceedings, this order shall be placed on record by the respondent in his execution proceedings and the executing Court while dealing with the said matter, would consider whether the execution proceedings would survive if at all the land at issue has already been disposed off by the respondent.

(RAVINDRA V. GHUGE, J.)

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