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

**WRIT PETITION NO.10517 OF 2014
WITH
CIVIL APPLICATION NO.11271 OF 2017**

Neetabai w/o Sanjay Bokhare,
Age: 35 years, Occu: Household,
R/o. Jiregalli, Aundha Nagnath,
Tq. Aundha Nagnath, Dist. Hingoli

..PETITIONER

VERSUS

1. Babarao s/o Govindrao Bokhare,
Age: 30 years, Occu: Agri.,
R/o Pangra Bokhare,
Tq. Vasmathnagar, Dist. Hingoli
2. Kushawarta d/o Govindrao Bokhare
@ Kushwarta w/o Rajkumar Bhalerao,
Age: 27 years, Occu: Household,
R/o. Jawla Bazar, Tq. Aundha Nagnath,
Dist. Hingoli
3. Rukminibai w/o Govindrao Bokhare,
Age: 51 years, Occu: Agri.,
R/o. Pangra Bokhare,
Tq. Vasmathnagar, Dist. Hingoli

..RESPONDENTS

Mr H. K. Munde, Advocate for petitioner;
Mr R. M. Gaikwad, Advocate for respondent Nos.1 & 3

CORAM : NITIN W. SAMBRE, J.

DATE : 4th September, 2017

ORAL ORDER:

The petitioner, a defendant in Regular Civil Suit No.162 of 1998 for injunction, was awarded a decree for partition and separate possession in counter claim preferred by her. In the execution of the said decree for

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partition and separate possession, the petitioner-judgment debtor has come out with an objection that the execution is liable to be stayed as the respondents have filed another suit being Regular Civil Suit No.95 of 2013.

2. By order dated 25th September, 2014, the executing court stayed the execution.

3. The petitioner – decree holder filed application along with an affidavit and documents stating that pursuant to the decree for partition and separate possession the petitioner has received possession of the suit property i.e. her share on 21st July, 2014 and has also placed on record panchnama drawn to that effect. According to the petitioner, the stay ordered by the executing court is subsequent to the receipt of possession by the present petitioner in execution of decree.

4. In view of aforesaid statement brought on record through affidavit dated 17th August, 2017 by the petitioner through Civil Application No.11271 of 2017, in my opinion, the issue raised in the petition no more survives. Accordingly, petition stands disposed of in the light of the statement, as aforesaid, made by the petitioner-decree holder.

5. Needless to say that in view of above subsequent development, it shall be open for the present petitioner to approach the executing court pointing out the aforesaid development, which will entail the executing court to pass appropriate orders in the matter.

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6. In view of disposal of the petition, pending Civil Application does not survive and stands disposed of accordingly.

(NITIN W. SAMBRE, J.)

amj