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

CIVIL REVISION APPLICATION NO. 2 OF 2017

Manesh Roopchand Dahihande,
Age: 30 years, Occu: Agril.,
R/o. Naregaon, Aurangabad,
Tq. & Dist. Aurangabad

..APPLICANT
(Orig. Deft.No.10)

VERSUS

1. Ramesh s/o Bhanudas Sarode,
Age: Major, Occu: Agril.,
R/o. Naregaon, Tq. & Dist. Aurangabad

2. Sudam s/o Ambadas Sarode,
Age: Major, Occu: Agril.,
R/o Naregaon, Tq. & Dist. Aurangabad

..RESPONDENTS
(Orig. plaintiffs)

Mr P. N. Kalani, Advocate for applicant;
Mr A. R. Gaikwad, Advocate for Respondent Nos. 1 & 2

CORAM : N.W. SAMBRE, J.

DATE : 19th June, 2017

ORAL ORDER

Heard.

2. It is an admitted position on record that the documents which were subject matter of earlier suit being Regular Civil Suit No.393 of 1986 for injunction, the issue of partition was raised, which papers were not placed on record when order below Exh.26 – an application under Order VII Rule 11 of the Code of Civil Procedure came to be moved. The learned Trial Judge has rejected the said application for want of appropriate details.

(2)

3. Though no illegality could be noticed in the order impugned, still in the interest of justice and in order to give an opportunity to the applicant to place on record documents of Regular Civil Suit No.393 of 1986, in my opinion, it will be appropriate to set aside the impugned order.

4. In view thereof, the impugned order dated 18th November, 2016, passed by the learned 4th Joint Civil Judge Junior Division, Aurangabad, below Exh.26 in Regular Civil Suit No.1284 of 2012 (Ramesh Vs. Sanjay), is set aside, subject to payment of costs of Rs.5,000/- to be deposited before the Trial Court within a period of two weeks from today. If the costs is deposited, the learned Trial Judge shall hear application Exh.26 afresh after considering the documents which the present applicant undertakes to tender, in any case, by next date of hearing along with an affidavit.

If the amount of costs as ordered and the documents as undertaken are not tendered within stipulated period, it be treated that the order passed below Exh.26 shall hold the field and the revision be treated as rejected.

If the amount of costs as ordered is deposited, the respondents-plaintiffs will be at liberty to withdraw the same.

Civil Revision Application stands disposed of in above terms.

(N.W. SAMBRE, J.)

amj