

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 4487 OF 2007

NILAWATI BABANRAO VAIDYA AND OTHERS
VERSUS
SHOBHABAI SHAHURAO VAIDYA AND ANOTHER

.....
Advocate for Petitioners : Mr. A M Gaikwad

.....
CORAM : V. K. JADHAV, J.
DATED : 27th FEBRUARY, 2020

PER COURT:-

1. Heard learned counsel for the petitioners.
2. As per the office note, during pendency of this Writ Petition, Regular Darkhast No. 83 of 2003 is disposed off on 20.07.2016.
3. By order dated 27.02.2008, while granting Rule, though the ad-interim relief granted earlier was directed to be continued, however, this Court had made it clear that pendency of the present petition shall not come in the way of the proceedings initiated vide Regular Darkhast No. 90 of 2003. It appears that the respondents/ original plaintiffs had instituted Regular Civil Suit No. 178 of 1997 for partition and the said suit is decreed by the Civil Court on 11.12.1998. There is a second appeal bearing Second Appeal No. 515 of 1999 pending against the said decree passed in Regular Civil Suit

No. 178 of 1997 for partition. So far as the decree passed in Regular Civil Suit No. 178 of 1997 is concerned, Regular Darkhast No. 44 of 1999 filed for execution of the said decree came to be disposed off vide order dated 03.07.2007 as per the report submitted by the Registrar (Judicial) of this Court. During pendency of this Writ Petition, Regular Darkhast No. 83 of 2003 is disposed off on 20.07.2016 and as such, this Writ Petition has become infructuous. Second Appeal No. 515 of 1999 is still pending before this Court and in terms of the decision rendered in Second Appeal, the respondents would be at liberty to file darkhast, if occasion so arises. This Court while disposing of Civil Application No. 7924 of 2007 in this Writ Petition by order dated 11.10.2007 has also observed that the parties would seek execution of the decree passed in Regular Civil Suit No. 178 of 1997 for partition. However, Execution Petition no. 44 of 1999 which was pending before the learned Civil Judge, Senior Division, Parbhani for execution of the decree passed in Regular Civil Suit No. 178 of 1997 also came to be disposed off vide order dated 03.07.2007 as informed by the Registrar (Judicial) of this Court. In view of the same, The Writ Petition is disposed off as infructuous.

(V. K. JADHAV, J.)