

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

13 WRIT PETITION NO.4397 OF 2009

RAMESHWAR S/O. BALIRAM DHAWAN
VERSUS
SARASWATI W/O. BALIRAM DHAVAN AND OTHERS

...
Advocate for Petitioner : Mr. G.K.Naik Thigle
Advocate for Respondent Nos.1, 4, 5, 6 : Mr. Patil Jayant R.
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CORAM : V. K. JADHAV, J.
DATE : 17.02.2020

PER COURT :-

1. The petitioner is original defendant No.2 in Regular Civil Suit No.12 of 2005. By judgment and decree dated 16.02.2008, the Trial Court has decreed the suit bearing Regular Civil Suit No.12 of 2005. Being aggrieved by the same, the petitioner – original defendant No.2 has preferred the Regular Civil Appeal No.199 of 2008 and during pendency of the said Appeal filed an application Exh.13 for staying the effect and operation of judgment and decree passed by the Trial Court. The learned Principal District Judge, Latur by impugned order rejected the application Exh.13. It further appears that during pendency of this Writ Petition, the appeal

bearing Regular Civil Appeal No.199 of 2008 came to be disposed off on 02.05.2015. Being aggrieved by the same, the petitioner – defendant No.2 has preferred the appeal bearing Second Appeal No.523 of 2018, which is still pending before this Court.

2. In view of the same, this Writ Petition has become infructuous. Though the learned counsel for the petitioner has expressed his apprehension about the observations made by the First Appellate Court about the delivery of possession of the suit property, in the event, if the Second Appeal is decided in favour of the petitioner – original defendant No.2, the provisions pertaining to the restitution would be applicable.

3. The Writ Petition has become infructuous and thus disposed off accordingly. Rule discharged.

(V. K. JADHAV, J.)

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vmk/-