

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 WRIT PETITION NO.5881 OF 2007

SURESH HIRALAL KHIVSARA AND ORS
VERSUS
SHANTILAL BHAGWANDAS GUGALE AND ANR

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Advocate for Petitioners : Mr. A.S.Bajaj.
Advocate for Respondent Nos.1 & 2 : Mr. R.R.Mantri

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CORAM : V. K. JADHAV, J.
DATE : 17.02.2020

PER COURT :-

1. The learned counsel for the petitioners, on instructions, submits that during the pendency of this Writ Petition the suit bearing Regular Civil Suit No.102 of 2007 came to be disposed off. The learned counsel appearing for respondents has also not disputed the same. It further appears from the information received from the office that the said Regular Civil Suit No.102 of 2007 came to be disposed off on 08.02.2010.

2. The defendants had filed an application to frame the preliminary issue i.e. issue of limitation. By impugned order dated 07.08.2007 the Trial Court has rejected the said application. The petitioners / original defendants have also

filed another application Exh.54 contending therein that the respondents / plaintiffs have instituted the suit for cancellation of various sale deeds in respect of seven (7) suit properties which were purchased by different seven (7) defendants and the description of all suit properties is different. It is therefore stated in the said application that the plaintiffs should have instituted the separate suit for each of the suit properties against each of the defendants and as such the suit in the present form cannot be continued. By impugned order dated 07.08.2007, the Trial Court has rejected the said application. This Writ Petition has been preferred against the orders passed below Exh.52 and 54. Since Regular Civil Suit No.102 of 2007 is now disposed off, this Writ Petition which has been preferred against the rejection of the application seeking framing of preliminary issue, has become infructuous.

3. The Writ Petition is accordingly disposed off. Rule discharged.

(V. K. JADHAV, J.)

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vmk/-