

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8664 OF 2018

Murlidhar s/o Chelaram Watwani

Petitioner

Versus

Harishchandra s/o Chelaram Watwani & others

Respondents

Mr. Hemant Surve, Advocate for the petitioner.

Mr. K.S. Sant, Advocate for respondents No. 2-1, 2-3 to 2-6.

WITH
CIVIL APPLICATION NO. 6347 OF 2021 IN
WRIT PETITION NO. 8664 OF 2018

Murlidhar s/o Chelaram Watwani

Applicant

Versus

Harishchandra s/o Chelaram Watwani & others

Respondents

Mr. Hemant Surve, Advocate for the applicant.

Mr. K.S. Sant, Advocate for respondents No. 2-1, 2-3 to 2-6.

CORAM : M.G. SEWLIKAR, J.

DATE : 17th July, 2021.

PER COURT :

1. Heard Shri Surve, learned counsel for the petitioner and Shri Sant, learned counsel for respondents No. 2-1, 2-3 to 2-6.

2. This writ petition is preferred against the order of rejection of plaint under Order VII Rule 11 (b) of the Code of Civil Procedure. Remedy against rejection of plaint is appeal under

Section 96 of the Code of Civil Procedure. Shri Sant, learned counsel for respondent No. 2 submits that the petitioner has already preferred appeal against this order. However, there is gross delay. Learned counsel Shri Surve submits that in a decree of specific performance, the order of appointment of Commissioner for executing sale-deed is passed and the sale-deed is likely to be executed.

3. Since writ petition is not maintainable against rejection of plaint, learned counsel Shri Surve seeks permission to withdraw the writ petition. He further seeks leave to withdraw Civil Application No. 6347/2021 with liberty to seek appropriate remedy permissible in law.

4. Writ petition is disposed of as withdrawn. Civil Application No. 6347/2021 is disposed of as withdrawn with liberty to avail the remedy as is permissible in law.

5. Pending civil application if any, does not survive and stands disposed of.

(M. G. SEWLIKAR)
Judge

dyb