

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.137 OF 2021

Basavraj Mallappa Sambhaji & Anr. ..Applicants

Vs.

Ashok Mallapaa Sambhaji through
POA Basavraj Appasheb Desai ..Respondents

Mr.Suryajeet P. Chavan i/b Mr.Tejas Hilage for the Applicants.
Mr.Drupad S. Patil a/w Mr.Dheeraj D. Patil for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 8 SEPTEMBER 2021

P.C.

. This Revision Application is filed by the original defendants challenging the order dated 20 June 2019 passed by the Civil Judge Junior Division, Gadhinglaj in RCS No.101 of 2018. By the impugned order the application Exhibit-19 filed by the applicants for rejection of the plaint under Order VII Rule 11 has been rejected.

2. I have heard learned counsel for the parties.

3. According to the applicants there is consent decree between the parties passed on 11 February 2017 in RCS No.67 of 2016 filed by the applicant. It is contended that in the said

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consent decree the parties have agreed to go for execution, in the event there is a breach of the terms of the consent decree and therefore the present suit is not maintainable. In short according to the applicant the remedy of the respondent is to seek execution of the decree if so advised.

4. Faced with this the learned counsel for the respondent on instructions states that the respondent shall withdraw the civil suit and shall apply for execution of the consent decree. The statement so made is accepted.

5. In such circumstances, nothing survives in the Civil Revision Application which is disposed of accordingly.

6. The learned counsel for the applicant states that the applicant shall not raise any objection to the maintainability of the execution. However, the contentions on merits are left open.

C.V. BHADANG, J.