

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

56 WRIT PETITION NO.9406 OF 2015

MINAXI PRABHAKAR CHOUDHARY
AND ANOTHER

VERSUS

BHAGIRTHIBAI LAXMANRAO SAWARE DIED
THROUGH LRS ASHABAI PRABHAKAR
SAWARE AND OTHERS

...

Advocate for Petitioners : Mr Vivek Vasantrao Bhavthankar
Advocate for Respondent No.1: Mr Ravikant Khandebharad h/f Mr V.D.
Salunke

CORAM : SANDEEP V. MARNE, J.
DATE : 28th NOVEMBER, 2022

PER COURT :

1. By this petition, petitioners challenge order dated 07.08.2015 passed by the Civil Judge Senior Division, Ambajogai on application Exh. 167 thereby rejecting petitioners application for stay of counter-claim till decision of his application for restoration of the suit. Plaintiffs suit came to be dismissed for want of prosecution on 04.02.2015. Before that, the defendants had filed counter claim, which remained pending for adjudication. Petitioners have moved an application for restoration of the suit apprehending that before restoration of the suit, the counter claim might be adjudicated. Petitioners moved an application at Exh. 167 for stay of counter claim till decision of the application for restoration of the suit.

2. This Court passed an interim order on 16th September, 2015 staying of the proceedings in RCS No.140/2012. Accordingly, the counter claim has not yet been adjudicated.

3. Learned counsel for petitioners places on record copy of order dated 20.10.2022 passed by the Civil Judge, Senior Division, Ambajogai by which plaintiffs application for restoration of the suit has been allowed by setting aside the order dated 04.02.2015.

4. In that view of the matter, since the suit itself is restored, nothing remains to be decided in the present petition.

5. Now both the suit as well as counter claim will proceed together.

6. With these observations, the writ petition is disposed of. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

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