

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

905 CIVIL APPLICATION NO. 14345 OF 2022

**JAGANNATH EKNATH KADAM AND OTHERS
VERSUS
KESHAV PUNJABA KADAM AND OTHERS**

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Advocate for Applicants : Mr. Himmatsinh Deshmukh h/f Mr. V. H. Dighe
Advocate for respondents : Mr. Sanket S. Kulkarni

...

**AND
SECOND APPEAL NO.496 OF 2018
WITH CA/8133/2018 IN SA/496/2018 WITH**

CORAM : RAJESH S. PATIL, J.

DATE : DECEMBER 20, 2022

PER COURT : -

1. This Civil Application is filed by the respondents (original plaintiffs) for appointment of a Court Receiver for the purpose of cultivation of the seasonal crops in the suit property from sowing till harvesting and selling and receiving the consideration amount.

2. Advocate for respondents (original plaintiffs) has stated that both the courts have concurrently held in his favour and then enjoined the defendants (original appellants) from disturbing the possession. He further states that, even thereafter, the original defendants on the basis of muscle power are not allowing the respondents (original plaintiffs) to cultivate the crops under the suit property. Therefore, he was
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constrained to file the present civil application and also execution application in the lower Court.

3. The advocate for the appellants (original defendants), who are the respondents in the present civil application, has strongly opposed this application. It is his case that a finding recorded by both the courts are perverse and he has a good case on merits. He further argued that his clients are in actual possession of the suit property and they be allowed to cultivate and harvest and further to sell the yielded crop for consideration. He further states, on instructions, that his clients are even ready to deposit the consideration amount in the Court.

4. However, advocate for the applicants (original plaintiffs) has opposed this submission on the ground that two courts have held concurrently in favour of the original plaintiffs and, therefore, to show *bona fides* he has not prayed to this Court to allow his clients to sell the crop for consideration but has fairly made an application for appointment of Court Receiver for the purpose of cultivation, harvesting and selling crop for consideration amount.

5. After hearing both the parties, by way of an interim arrangement, this Court is of a view that as the crop must be ripe for harvesting and selling, the trial Court shall appoint a proper and fit
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person as a Court Receiver for the purpose of cultivation of the seasonal crop in the suit premises, from sowing till harvesting and further selling the crops yielded and to receive the consideration amount. The amount that will be received after selling the crop should be deposited in the executing Court. The amount so received by the executing Court should be kept in a fixed deposit (FD) in any nationalized bank. The said amount shall not be released without further orders of this Court.

6. Both the parties are directed to cooperate with the Court Receiver and shall not create any kind of disturbance or obstruct the Court Receiver from acting on the basis of the directions given by this Court.

7. This is an interim arrangement, therefore, there is no question of any party claiming any kind of equity on the basis of the directions given under this order.

8. With the aforesaid directions, this Civil Application is disposed off.

9. In the meanwhile, *status quo* as of today as regards the execution application be maintained till this Court hears the Second Appeal for admission.

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10. Parties to act on the authenticated copy of this order.
11. Second Appeal be listed for hearing on **16th January, 2023** under the 'urgent admission' category.

[RAJESH S. PATIL]
JUDGE