

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

7 CRA NO.222 OF 2017

BALAJI GOPALRAO GIRE AND ANOTHER
VERSUS
SUDESH LAXMANRAO DESHMUKH AND OTHERS

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Advocate for Petitioners/Applicants : Mr. S. S. Jangada h/f
Mr. Deshmukh Sachin S.
Advocate for Respondent No.1 : Mr. Ashtekar R. K.
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CORAM : S. G. MEHARE, J.
DATE : 08.11.2023

PER COURT :-

1. Heard the learned counsel for the applicants and learned counsel for the respondent.
2. The respondent Sudesh had filed a suit for permanent injunction against the applicants and one Santosh Patai about the compensation of amount. His suit was registered as Special Civil Suit No.312 of 2017. Before the said suit, defendant No.3 in the said suit namely Santosh had filed Regular Civil Suit No.542 of 2015 against the plaintiff Sudesh. In the said suit, the present plaintiff had filed a counter claim for specific performance of sale and declaration in respect of sale deed RE.No.3045 of 2013. Santosh withdrew his suit, but the counter claim of Sudesh was treated and declined.

3. Learned counsel for the applicants submits that the title on the basis of which Special Civil Suit No.312 of 2017 was filed was determined in Regular Civil Suit No.542 of 2015. Hence, nothing remained to be considered in Special Civil Suit No.312 of 2017. The said suit became infructuous. He would submit that the plea raised in Special Civil Suit No.312 of 2017 has been adjudicated finally. The purpose of the present applicants has been served.

4. Hence, this Civil Revision Application consequently become infructuous.

5. In fact, the judgment and decree of Regular Civil Suit No.542 of 2015 was to be placed in Special Civil Suit No.312 of 2017 with an application for dismissal of the suit as infructuous.

6. The dispute was about compensation. In view of the judgment of Regular Civil Suit No.542 of 2015, the present applicants have received the entire compensation. So, his interest is protected. In that circumstances, this Civil Revision Application is disposed of as infructuous.

7. The applicants shall move before the Court in which Special Civil Suit No.312 of 2017 is pending and submit an

application with the judgment of Regular Civil Suit No.542 of 2015 with a prayer to dismiss the said suit. If the Trial Court would not accept the contention, he will be at liberty to file the similar application before the Trial Court.

8. Present civil revision application accordingly disposed of as infructuous.

(S. G. MEHARE, J.)

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vmk/-