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

**SECOND APPEAL NO.798 OF 2019
WITH
CIVIL APPLICATION NO. 531 OF 2019**

Shri Bhausahab Tatyaba Sutar
through Power of Attorney
Shrikant Bhausahab Sutar

...Appellant

Versus

Shri. Shankar Vishnu Sutar
since deceased through legal heirs
Shri. Ashok Shankar Sutar & Ors.

...Respondents

None for the Appellant.

Mr. Ratan Upadhyay a/w. Mr. Sushant Prabhune, for the Respondent
No.1A to 1E.

CORAM : MADHAV J. JAMDAR, J.

DATED : 1st FEBRUARY 2023

P.C. :

1. Heard Mr. Ratan Upadhyay i/b. Mr. Sushant Sudhakar Prabhune, learned Advocate appearing for Respondent Nos. 1A to 1E i.e. heirs of original Plaintiff. He states that by Judgment and Decree dated 8th August 2012 passed by the learned Joint Civil Judge, Junior Division, Baramati passed in Regular Civil Suit No.153 of 2005 the possession of City Survey No.112 was

Sonali

directed to be handed over to the original Plaintiff. He further submits that the Appeal filed by the Defendants i.e. present Appellant bearing Regular Civil Appeal No.116 of 2016 was also dismissed by the learned District Judge, Baramati, Dist. Pune by Judgment and Decree dated 1st November 2018. He states that during the pendency of this Second Appeal, the Appellant has handed over the possession of the suit property to the Respondents.

2. Mr. Ratan Upadhyay also tenders copy of order dated 22nd April 2022 passed by the learned Joint Civil Judge, Junior Division, Baramati below Exhibit-1 in Regular Darkhast No.141 of 2012. In the said order, it has been recorded that as per the Bailiff report, the possession is handed over to the Decree Holder and therefore, Darkhast has been disposed of as fully satisfied.

3. None appears for the Appellant. It appears that as the possession of the suit property is handed over by the Appellant to the Respondents, the Appellant is not interested in prosecuting the Second Appeal.

4. This matter was placed on 30th January 2023. However,

Sonali

as none appeared for the Appellant, the matter is adjourned to today. Although in order dated 30th January 2023 it is mentioned that Advocate Ratan Upadhyay appeared for the Appellant and none for the Respondents, in fact none had appeared for the Appellant and Mr. Ratan Upadhyay appeared for the Respondents.

5. Thus, the Second Appeal is dismissed for non-prosecution and disposed of as such.

6. In view of the dismissal of the Second Appeal for non-prosecution, nothing survives in the Civil Application and the same is also dismissed as such.

[MADHAV J. JAMDAR, J.]