IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7726 OF 2019

Rajendra Dattatraya Ganore & Anr. .....PETITIONERS

: VERSUS :

Deepak Madhukar Kedar & Ors. ....RESPONDENTS

Ms. Aditi Naikare i/b. Mr. Pradeep J. Thorat, for the Petitioners.

Mr. Pratik B. Rahade, for the Respondents.

CORAM : SANDEEP V. MARNE, J.

DATED : 24 DECEMBER 2025.

P.C :

1) The petition challenges order dated 1 March 2019 passed by the Joint Civil Judge, Senior Division, Nashik below Exhibit-45 in Special Civil Suit No. 95 of 2017 directing deletion of Defendant Nos.5 and 6.

2) I have heard Ms.Naikare, the learned counsel appearing for the Petitioners and Mr.Rahade, the learned counsel appearing for the Respondents.

3) Defendant Nos.5 and 6 were added by order dated 5 February 2018. Defendant Nos.5 and 6 filed application at Exhibit-45 seeking their deletion on the ground that the land purchased by them does not form part of suit property. I have gone through the

averments in the application at Exhibit-45 demonstrating as to how the land purchased by Defendant Nos.5 and 6 does not form part of suit property. Petitioners filed reply to the application of Defendant Nos.5 and 6 and the contents of that reply are noted by the Trial Court in para-2 of the order dated 1 March 2019. Petitioners did not make an averment in their reply that the land purchased by Defendant Nos.5 and 6 forms part of the suit property. There is no denial by the Petitioners that the land purchased by Defendant Nos.5 and 6 does not form part of the suit property. In that view of the matter, no error can be traced in the order dated 1 March 2019 and warrants dismissal.

4) The matter does not end here. On 14 October 2025, this Court passed the following order :

> 1) The learned counsel appearing for Respondent Nos.1 and 2 submits that his clients have already returned the amount of consideration to the Petitioners and that notarised document witnessing return of consideration has been executed between the parties. He would submit that the main Suit has become infructuous. On account of pendency of the present Petition the Trial Court is unable to dispose of the main Suit.
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> 2) Ms. Amisha, the learned counsel would submit that Mr. Thorat, the learned counsel appearing for the Petitioners is held up before another Court.
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> 3) List the Petition on 17 October 2025 under the caption 'for dismissal'.

5) Mr. Rahade has placed on record copy of application at Exhibit-53 filed by Defendant Nos.1 and 2 for recording compromise between the parties. With that application, the document titled as 'Deed of cancellation of Agreement for Sale' has been placed on record. It is the contention of Defendant Nos.1 and 2 that Plaintiffs have already accepted consideration of Rs.55,00,000/- and have given up their rights arising out of the Agreement for Sale. According to Defendant Nos.1 and 2, the Suit has been compromised

by execution of the said Deed dated 3 November 2020. It is surprising that the said Application has still not been decided by the Trial Court. The Trial Court shall forthwith proceed to decide the application at Exhibit-53. If it is satisfied that the compromise has been recorded by way of Cancellation Deed dated 23 November 2020, the Trial Court shall forthwith proceed to dispose of the Suit under the provisions of Order 23 Rule 3 of the Code. The application at Exhibit-53 shall be decided in an expeditious manner, preferably by 28 February 2026. With the above observations, the Writ Petition is **dismissed.**

NEETA SHAILESH SAWANT
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Date: 2025.12.24 17:50:44 +0530

[SANDEEP V. MARNE, J.]