

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 8511 OF 2015**

**Malkarshiddha B. Parit & Ors.**

**..Petitioners**

**Vs.**

**Prakash T. Nawale & Ors.**

**..Respondents**

**Mr. S. C. Wakankar for the Petitioners**

**CORAM : R. M. SAVANT, J.  
DATE : 24<sup>th</sup> AUGUST, 2015**

**P.C.**

1           The Writ Jurisdiction of this court is invoked against the order dated 1-8-2015 passed by the Learned 4<sup>th</sup> Joint Civil Judge Senior Division, Solapur, by which order, the Learned Judge has refused to stay the execution proceeding by directing the Petitioner who is the judgment debtor to avail of other modes. The execution proceedings are in respect of a decree passed in Special Civil Suit No.485 of 1989 which is a decree or specific performance and declaration that the decree passed in Regular Civil Suit No.306 of 1991 is illegal on the ground that it is a collusive decree. The Petitioners have filed their own Suit being Special Civil Suit NO.84 of 2014, challenging the decree of specific performance passed in Special Civil Suit No.485 of 1989. The Petitioners have also filed an application for injunction in the said Suit. Since the decree passed in the said Special Civil Suit No.485 of 1989 is valid and subsisting, obviously the same would have to be executed. The Executing Court

was therefore right in rejecting the application filed by the Petitioners being Exhibit 184 for stay of the execution proceedings and has thereafter issued possession warrant.

2           In my view therefore, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

3           Needless to state that the application for temporary injunction filed by the Petitioners in his own Suit would be tried on its own merits and in accordance with law.

**[R.M.SAVANT, J]**