

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9995 OF 2014

Shankar Subash Devarguti & Anr. .. Petitioners
vs.
Kalkhosrow Meharban Tirandazina & Anr. .. Respondents

Mr. Uday P. Warunjikar for Petitioners.

CORAM : M. S. SONAK, J.
DATE: 25 JUNE 2015

P.C. :-

1] **Not on Board. Upon production, taken on board.**

2] This petition challenges order dated 27 August 2014 made by the Small Causes Court in execution proceedings no. 134 of 2014, dismissing the petitioners application resisting the execution on the ground that the original decree for eviction was without jurisdiction or in any case obtained by fraud.

3] In the present case, it is to be noted that the decree of eviction has attained finality upto the stage of the Hon'ble Apex Court. If the application at Exhibit 17 is perused, it does appear that the petitioners desire the executing Court to go behind the decree. This is clearly not permissible. In such circumstances, there is no

jurisdictional error or perversity of approach in the making of the impugned order. This petition is accordingly dismissed. There shall be no order as to costs.

4] At this stage, Mr. Warunjikar submits that the execution be stayed for some time in order to enable the petitioner to resort to appropriate proceedings. Considering that the decree in question was ultimately not interfered with by the Hon'ble Apex Court, there is no reason to grant any stay on the execution proceedings. Request is accordingly rejected.

(M. S. SONAK, J.)

Chandka