

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

WRIT PETITION (STAMP) NO.29855 OF 2014

Shivaji Dinkar Dhumal

.. Petitioner

Versus

Ramchandra Tukaram Dhor (Dhumal)

(Since deceased through LR's)

Laxman Ramchandra Dhumal (Dhor) and others

.. Respondents

Mr. Sarthak S. Diwan & Mr. Saurabh D. Dikshit, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 20th FEBRUARY, 2015

PC.

1. The order dated 09.04.2014 passed by the Learned Joint Civil Judge, Junior Division, Saswad, rejecting the application Exh.34 for setting aside the “no say” order passed against the Petitioner herein who is the Opponent No.4(b) in Misc. Application No.140 of 1989 is taken exception to by way of the above Petition.

2. The suit in question has been decreed in the year 1999 and the present application i.e. Misc. Application No.140 of 1989 has been filed for mesne profits as the suit was for redemption of mortgage. The notice of the present application i.e. Misc. Application No.140 of 1989 was served upon the Opponent No.4(b) on 7th December, 2006 and appearance

was filed on behalf of the said Opponent on 13th December, 2006. However, in spite of opportunity being granted no reply to the said application being Misc. Application No.140 of 1989 was filed and there was no justifiable reason given for not filing the same. The Trial Court has accordingly rejected the application Exh.34. Today also during the course of the hearing of the above Petition the reason put forth by the Learned Counsel for the Petitioner is not such that would entitle the Petitioner i.e. Opponent No.4(b) to the setting aside of the “no say” order passed against him. The Petitioner seems to be prosecuting the said application in a negligent and indolent manner. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]