

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

**CIVIL REVISION APPLICATION NO.11 OF 2014
WITH
CIVIL APPLICATION NO.555 OF 2014**

**Dhanottam Vasant Lonkar
One of the Trustees of
Omkareshwar Mahadeo Devasthan : Applicant
versus
Gangadhar Vasant Lonkar and ors. : Respondents.**

**Mr. Vaibhav Sugdare i/by M/s. Thakordas & Madgavkar for the Applicant.
Mr. S S Patwardhan for the Respondent Nos.2 and 14.**

**CORAM : R. M. SAVANT, J.
DATE : 12th January 2015**

P.C.

1 The order dated 11/10/2014 passed by the Executing Court i.e. the learned District Judge-15, Pune in the execution application filed for execution of the Award in Scheme Application No.23 of 2002 is taken exception to by the Applicant who is one of the Trustees of the Trust known as Omkareshwar Mahadeo Devasthan, in the revisionary jurisdiction of this court.

2 It is the contention of the learned counsel for the Applicant Shri Sugdare that the directions in respect of the scheme which has been formulated for the Trust in question in respect of the donation boxes in the Gabhara i.e. the sanctum sanctorum of the temple in question and the boxes outside the gabhara so as to distinguish them as the donations which are to be

taken by the Guravs i.e. the Respondents herein and the donations which go to the Trust, have not been issued by the Executing Court.

3 In so far as the relief which was sought vide prayer clause 1(c) of the Execution Application viz. that the Judgment Debtors Nos.2 and 3 be directed to remove the locks put by them in the property of the trust and direct them to hand over the possession of the complex of Omkareshwar temple to the Decree Holders. The Executing Court i.e. the learned District Judge-15 Pune has not specifically dealt with the said prayer but has alluded to the fact that the Guravs are residing in the temple and that the property has been handed over to them for the purposes of worship, and that the Guravs are also performing Pooja in the temple from generations, and therefore, the Executing Court held that the Award does not suggest taking possession exclusively. The said aspect would have to be considered by the Executing Court from the stand point of the scheme which has been framed and which has to be applied towards the management of the temple. In case only juridical or symbolic possession is to be granted as distinguished from the physical possession, the Executing Court ought to have made an observation to the said effect. The fact that juridical possession would undoubtedly be of the Trust cannot be disputed. Hence appropriate directions for management of the Trust in the matter of keeping the keys etc would have to be issued. Hence notwithstanding the observations made in Paragraphs 3 and 4 of the impugned order, the Executing

Court may consider the same on the aforesaid basis more especially having regard to the scheme that is framed. In so far as 'Devachi Ovari' which is a room where the paraphernalia for pooja/archa is kept, the same would also have to be considered on the aforesaid lines. However, to avoid further acrimony between the trustees and the Guravs, it is necessary to issue prompt directions as regards the donation boxes in the Gabhara as well as outside the temple expeditiously. The learned counsel for the Applicant states that an application in that respect would be moved within ten days from date. The Executing Court may consider the said application expeditiously within four weeks thereafter so as to avoid further complications and disputes between the parties.

4 With the aforesaid observations, the above Civil Revision Application is disposed of.

5 In view of the disposal of the above Civil Revision Application, Civil Application No.555 of 2014 does not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]