

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 663 OF 2014

(Madan Vitthalrao Thool Vs. Sau. Rajani w/o Ajay Thool & others)

WITH

CRIMINAL APPLICATION NO. 44 OF 2015

(Madan Vitthalrao Thool Vs. Sau. Rajani w/o Ajay Thool & others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. K. Thengri, Advocate for the applicant.
Shri Manoj Mishra, Advocate for N.A. No.1.
Shri M. M. Ekre, A.P.P. for N.A. Nos. 3 & 4.

CORAM : S. B. SHUKRE, J.

DATED : 11 MARCH, 2015

After hearing both these applications for considerable length of time, learned Counsel for the applicant in each of these applications has sought permission of this Court to withdraw both the applications with liberty to file fresh objection before the Executing Court on the ground that house No.456 is not situated on plot No.351, Garoba Maidan, Nagpur.

Learned Counsel for non-applicant No.1 in both these applications opposing the prayer submits that if it is the contention of the applicant that house No.456 does not exist on plot No.351, although the warrant of attachment has been duly executed in respect of this very property, then the applicant would have no *locus standi* to take any objection before the Executing Court.

The exception so taken by learned Counsel for non-applicant No.1 can also be taken by her before the Executing Court, in case fresh objection against issuance of warrant of attachment is filed by the applicant, and in that case, it would be decided by the Executing Court, in accordance with law.

In case, fresh objection is filed, the execution shall be reopened and the objection together with the counter objection of respondent No.1, if any, shall be decided afresh by the Executing Court, in accordance with law and the Executing Court shall have a liberty to suitably modify or recall the order of attachment passed earlier, if new circumstances and new grounds to the satisfaction of the Executing Court are brought to its notice.

Therefore, I am inclined to grant permission to the applicant for withdrawal of both these applications with liberty as prayed for.

Accordingly, both the applications are allowed to be withdrawn with liberty as prayed for keeping all the contentions of both the sides open.