

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO.1792 OF 2015**

PRATAP S/O SADASHIV HADKE

V/S

SAU. FULANBAI MAHADEO MAHAJAN

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

Court's or Judge's order

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Shri S.R. Deshpande, counsel for the petitioner.

**CORAM : R. K. DESHPANDE, J.**

**DATE : APRIL 6, 2015**

Heard Shri S.R. Deshpande, learned counsel  
for the petitioner.

The order impugned is passed on 10.3.2015  
by the executing Court, in Regular Darkhast No.8  
of 2012, rejecting objection raised by the  
judgment debtor to the executability of the  
decree. In paragraph No.9 of the order impugned  
the executing Court has held as under :

*"I am of a view when the D.H. moves  
the Civil Court by filing an application  
in the nature of a request letter for  
sending the decree to the Collector.  
Then such application not required  
judicial inquiry and execution will be  
disposed of immediate after sending  
the decree to the Collector. The  
Collector in effecting the partition and  
separate share performs a quasi  
judicial function and not a ministerial  
duty. He is bound to hear the parties*

*and considered their objections. The objection to the effect of measurement is to be raised before the Collector but in the said execution the judgment debtor has not raised the objection before the Collector and he has not satisfied the court as to why he has not raised the said objection before the Collector till date. Hence, I am of a view that the objection of J.D. is not maintainable. Hence, I am going to pass following order. ....”*

A categorical finding is recorded by the executing Court that objection to the measurement report submitted by the Revenue Inspector was required to be raised before the Collector, but such objection was never raised to the measurement report. The Collector has accordingly submitted his final report to the executing Court on the basis of which the executing Court has directed issuance of warrant of possession. There is no ground raised in the petition that any such objection was raised before the Collector and the Collector has failed to consider such objection.

In view of above, no interference is called for in the order impugned. The writ petition is dismissed.

**JUDGE**

**!! BRW !!**

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