

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

Writ Petition No.5201 of 2015

(Prabhakar s/o Namdeo Dandge v. Shankar Namdeo Dandge and others)

---

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

---

Court's or Judge's orders

Shri M.G. Rathi, Advocate for Petitioner.

Shri N.B. Kalwaghe, Advocate for Respondent Nos.1 to 4.

**Coram : R.K. Deshpande, J.**

**Date : 14<sup>th</sup> October, 2015**

The challenge in this petition is to the order dated 30-3-2015 passed by the Executing Court in R.D. No.04 of 2005 below Exhibit 63. The Executing Court has sent the precept under Section 54 of the Code of Civil Procedure to the District Collector, Buldana, for effecting partition and separate possession.

The learned counsel for the petitioner submits that the partition cannot be effected without prior permission of the Collector in view of the fact that there is a notification issued under Section 11 of the Maharashtra Project Affected Persons Rehabilitation Act.

The Executing Court has held that such an objection can be raised before the Collector in the proceedings under Section 54 of the Code of Civil Procedure. A copy of the order dated 16-10-2007 granting permission by the Collector has also been placed on record as Annexure F. In view of this, it is open for the authority under Section 54 of the Code to decide such objection, if the same is raised before him. Hence, no interference is called for.

The petition is dismissed.

Judge.

Lanjewar