

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

WRIT PETITION NO. 6587 OF 2016

Pramila Eknath Jadhav

... Petitioner

Versus

Ranjit Narayanrao Jadhav and others

... Respondents

.....
Mr. Shailesh S. Chapalgaonkar, Advocate for petitioner
.....

CORAM : SUNIL P. DESHMUKH, J.

DATE : 04th JULY, 2016

ORDER :

1. Heard learned counsel for the petitioner.
2. Petition has been moved against order dated 16th December, 2015 passed by the District Judge-2, Kopargaon in Miscellaneous Civil Appeal No. 55 of 2013, whereunder, the appeal challenging order dated 12th August, 2013 on Exhibit-19 passed by Civil Judge, Junior Division, Kopargaon in execution proceedings pursuant to decree in Regular Civil Suit No. 218 of 2006, in respect of 96 square feet portion of CTS No.2104 filed by present petitioner has been dismissed.

3. The decree concerns 96 square feet portion of CTS No.2104 on North-West corner situated within the limits of Kopargaon Municipal Council and the decree holder has been declared owner and has been considered entitled to possession of the same. Possession warrant has been issued in respect of the same.

4. Husband of petitioner resisted the execution of possession warrant. It was upon that appeal proceedings referred to above, had been sought to be prosecuted by present petitioner.

5. Having regard to the circumstances and the contentions, it has been considered by the executing court that the petitioner is not at all claiming any right, title and interest with respect to the decreed plot and as such, the court has issued warrant as there is no question of any adjudication as no issue arises in respect of the decreed property.

6. During the hearing, it transpires that, the executing court has appreciated, it has been contended by the petitioner that she is holding possession of a portion of plot adjoining the decreed plot and the plot in possession of the petitioner is existing on the southern side of the decreed plot.

7. In the circumstances, there is no warrant for interference in impugned order.

8. Writ petition, as such, is not being entertained and stands rejected.

9. The learned counsel requests that he may be given liberty to file appropriate proceedings, Needless to state that in case the petitioner has any other remedy permissible in law, liberty from this court would not be necessary.

(SUNIL P. DESHMUKH, J.)

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