

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

WRIT PETITION NO.8381 OF 2016

Dharma Baburao Bagal,
Age major, Occu. Agri.,
R/o Brahmagaon,
Taluka Paranda, District
Osmanabad

..Petitioner

Versus

1. Uttam Santram Vhankalas,
Age 70 years, Occu. Agriculture
R/o Kasba Peth, Barshi,
District Solapur
2. Suresh Bhagwan Lokare,
Age 35 years, Occu. Agriculture,
R/o Pimpalwadi, Taluka Paranda,
District Osmanabad
3. Devidas Bhagwan Lokare,
Age 32 years, Occu. Agriculture,
R/o Pimpalwadi, Taluka Paranda,
District Osmanabad

..Respondents

Mr V.S. Undre, Advocate for petitioner
Mr P.S. Chavan, Advocate for respondents No.1 to 3

CORAM : T.V. NALAWADE, J.

DATE : 24th August 2016

PER COURT

1. The petition is filed to challenge the order made by executing Court in Regular Darkhast No.4 of 2015. In execution proceedings, learned Civil Judge, Junior Division, Paranda, District Osmanabad has made order of police protection in favour of present respondents, decree holder to see that in view of the said decree of permanent injunction, he is able to enjoy the property by making some construction on the suit property. The order was made after hearing both the sides.

2. Learned Counsel for petitioner submitted in the present proceeding that petitioner is in possession of the suit property and by using such order, the decree holder is trying to take the possession. Respondents No.2 and 3 are the purchasers of decree holder and they are now prosecuting the execution proceedings. It appears that the decree of injunction and declaration given in favour of original plaintiff, predecessor-in-title of present respondents No.2 and 3 is challenged by filing Regular Civil Appeal in District Court. When appeal is pending in appropriate forum, it was necessary for present petitioner to approach the said forum for getting stay to the decree of injunction, so long as there is decree of injunction and there is no stay to the said decision, the executing Court is bound to make the orders which will help the decree holder in getting execution of the decree.

3. In view of these circumstances, this Court holds that it is not possible to interfere in the order made by the executing Court. The proper course for petitioner will be to approach the District Court for obtaining appropriate orders. As such, Writ Petition is dismissed.

(T.V. NALAWADE, J.)

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