

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

921 WRIT PETITION NO. 11316 OF 2016

SHAM LAXMAN MEHER AND OTHERS
VERSUS
SITABAI KAILASH MARMAT AND OTHERS

Shri. Hrishikesh V. Tungar, Advocate, for petitioners.

CORAM: T.V. NALAWADE, J.
DATE : 18 NOVEMBER 2016

ORDER:

1) The petition is filed to challenge the order made by the learned 4th Joint Civil Judge, Senior Division, Aurangabad on Exhibit 27 in Execution Petition No.503/2012. Heard learned counsel for the petitioners.

2) It appears that there is decree of perpetual injunction against the present petitioners in Regular Civil Suit No.1031/2004. It is in respect of agricultural land. In the past also police protection order was made and that order was not set aside. It appears that the decree holder again felt that present petitioners were creating hurdle when the decree holder was harvesting the crop, she first made report to the police and then she applied for police protection in the execution proceeding. Learned counsel

for the petitioners submitted that F.I.R. was given one year prior to the date of the application made for police protection and in view of this circumstance the Executing Court ought to have directed the decree holder to lead evidence. When there is decree of perpetual injunction and it has become final, in ordinary course the Court is expected to give protection when the Court is satisfied that there is interference in the rights of the decree holder and for protecting the rights, such order needs to be made. The learned counsel for the petitioner placed reliance on one case of Andhra Pradesh High Court reported as **ALT 2010 (3) 210 (D. Tulja Devi v. Margam Shankar)**. Facts and circumstances of each and every case are always different. This Court holds that, in view of the facts of the present case, the executing Court has not committed any error in granting police protection. There is nothing to hold that such order is causing prejudice to the petitioners when the decree of perpetual injunction has become final. There is no possibility to interfere in the order. The petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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