

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10743 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Bhushan Mandlik i/b Mr.S.S.Patwardhan for the petitioner

CORAM : K. K. TATED, J.

DATE : JULY 28, 2016

P.C.:

1 Heard the learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India, the Petitioner judgment debtor challenges the order dated 20.8.2013 passed by executing court below Exhibit-71D rejecting their application for direction against the respondent decree holder to disclose some documents.

3 It is to be noted that in the present proceeding, judgment and decree passed by Trial Court in Special Civil Suit No. 30 of 1994 was put for execution. In execution proceedings respondent decree holder preferred application under Order XXI Rule 38 of the Code of Civil Procedure, 1908 below Exhibit-49. That

application was decided by Trial Court on 10.12.2009 and issued show cause notice under Order 21 Rule 37 of the Code of Civil Procedure, 1908 against the judgment debtor. After more than 4 years judgment debtor preferred application below Exhibit-71D. Same was rejected by the Trial Court on the ground that under Order XXI Rule 37 of the Code of Civil Procedure, 1908 show cause notice was already issued.

4 It is to be noted that once the show cause notice is issued as per Order XXI Rule 37 of the Code of Civil Procedure, 1908 judgment debtor had to reply the same and show cause why action should not be taken against him. In that case, debtor can raise all his objection.

5 Considering these facts, Trial Court rightly rejected petitioner's application below Exhibit-71D on that ground only. Considering these facts, I do not find any reason to entertain the present Writ Petition. Same stand rejected.

JUDGE