

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

Writ Petition No.896 of 2016
(Sakhubai wd/o Ramdas Bhawe v. Tulshiram s/o Pundalik Tade and others)

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

Shri S.C. Mehadia, Advocate for Petitioner.
Shri A.R. Deshpande, Advocate for Respondent No.1.

Coram : R.K. Deshpande, J.
Date : 8th February, 2016

The Executing Court rejected the objection raised to the executability of the decree passed in Regular Civil Suit No.59 of 2004. Against such rejection, there is an appeal preferred, being Regular Civil Appeal No.5 of 2016, which is pending for adjudication before the lower Appellate Court. In the said appeal, an application was filed for stay of the further proceedings of Regular Darkhast No.5 of 2011, which has been rejected by the lower Appellate Court on 29-1-2016. Hence, this petition.

The lower Appellate Court has held that the decree passed in Regular Civil Suit No.59 of 2004 has attained the finality up to the Apex Court. Throughout in the said proceedings, the case of the judgment-debtors was that they were in possession of the suit property. The decree is, therefore, to be executed against the judgment-debtors.

The present petitioner is the objector claiming to be in possession of the suit property. However, the lower Appellate Court has recorded the finding that it is not established as to how the petitioner alleges to be in possession of the suit property. The prima facie case for possession of the suit property has not been established.

No interference is, therefore, called for in the order impugned in this petition.

The petition is dismissed.

Judge.

Lanjewar