

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

WRIT PETITION NO.4352 OF 2016
(ANIL KISAN GAIKWAD....VS..AJAY HARISH NABIRA & ANR.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.
DATED : AUGUST 02, 2016.

Heard Shri C.S.Dhore, advocate for the petitioner-
objector.

The respondents had filed Special Civil Suit No. 595 of 2008 against Ashok Kisan Gaikwad praying for decree for specific performance of contract of Plot No.60. The learned trial Judge granted decree for specific performance of contract by the judgment dated 26th June, 2016. Shri Ashok Kisan Gaikwad defendant/ judgment debtor has not filed appeal to challenge the above judgment and decree. The respondents filed execution proceedings. In the execution proceedings the petitioner filed objection under Order 21 Rule 97 read with Section 151 of the Code of Civil Procedure. The respondents filed their reply to the objection. After the respondents filed their reply, the petitioner filed application (Exh.15) under Order VI Rule 17 of the Code of Civil Procedure seeking permission to amend the objection. This application is dismissed by the executing Court by the impugned order.

It is submitted on behalf of the petitioner that in the reply the respondents/ decree holders have made certain averments about Plot No.74 and to counter the allegations made by the respondents/ decree holder in respect of Plot No.74, the petitioner is required to file application (Exh.15), seeking permission to amend the objection to counter the claim of the respondents/ decree-holder in respect of Plot No.74.

Apart from the fact that the order passed by the Executing Court is proper and based on proper appreciation of material on record, I find that filing of the application (Exh.15) is frivolous and mischievous. The petitioner has not been able to show the relevance of proposed amendment. The reference of Plot No.74 in the reply filed by the respondents/ decree holders cannot give any cause to the petitioner to seek amendment to the objection as the decree which is being executed is in respect of Plot No.60.

There is neither any infirmity or illegality in the impugned order nor the learned trial Judge has committed any error of jurisdiction which necessitates interference in the extra-ordinary jurisdiction.

The petition is dismissed. No costs.

JUDGE

CERTIFICATE

I certify that this order uploaded is a true and correct copy of original signed order.

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