

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

Second Appeal No.384 of 2016
(Mohamed Khalil Mohamed Issac Lohar v. Navneetkumar Hanumanprasad
Bajoriya 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.R. Deshpande, Advocate for Appellant.
Shri Abhay Bhide, Advocate for Respondent No.1-Caveator.

Coram : R.K. Deshpande, J.
Date : 24th August, 2016

The appellant is the son of the judgment-debtor, who was the tenant in respect of the suit property. The decree passed against the father of the appellant for possession of the suit property, has become final. During the pendency of the second appeal, the father of the appellant died and his legal heirs, who were in possession of the suit property, were brought on record. In the execution proceedings, the appellant has raised an objection that he was not a party to the suit for eviction and possession. The objection raised is silent on the question of possession of the appellant over the suit property either along with his father or after the death of his father. In the absence of such a plea being raised, no error can be found with the view taken by the Courts below in rejecting the objection.

The second appeal is dismissed. The Executing Court is directed to provide police aid, if required, to execute the decree. The Executing Court should see that the decree is executed within a period of thirty days from today.

The only thing, which can be said about this litigation, is that this is an abuse of process of Court. Hence, the prayer for grant of interim order is rejected. Consequently, Civil Application No.825 of 2016 for grant of stay is disposed of as infructuous.

Judge.

Lanjewar

CERTIFICATE

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by :
P.D. Lanjewar, PS

Uploaded on : 25-8-2016