

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

WRIT PETITION NO. 1159 OF 2016

Shashikala Suresh Gargade .. Petitioner
Age. 65 years, Occ. Agri.,
R/o. Ashti, Tq. Ashti, Dist. Beed
At present residing at Zambad
Estate, Ganga Apartment, Flat No.A,
Aurangabad.

Versus

1. Appa s/o. Baburao Sanap .. Respondents
Age. 50 years, Occ. Agri.,
2. Kalyan s/o. Baburao Sanap
Age. 45 years, Occ. Agri.,
3. Ambadas s/o. Baburao Sanap
Age. 40 years, Occ. Agri.,
4. Raghunath s/o. Baburao Sanap
Age. 36 years, Occ. Agri.,
All R/o. Savargaon, Tq. Patoda,
Dist. Beed.

Mr.N.L. Jadhav, Advocate for the petitioner.
None for the respondents.

**CORAM : S.B. SHUKRE, J.
DATED : 17.02.2017**

ORAL JUDGMENT :-

1. Heard. Rule. Rule made returnable forthwith and heard finally as this Court had already indicated while re-issuing notice that the matter shall be disposed of finally.

2. None for the respondents.

3. Although, the question of limitation has been raised by the petitioner/decreed holder, I do not see it as arising in this case. No doubt, the judgment debtors have made prayer to the executing Court for permitting them to deposit Rs.13,000/- in satisfaction of decree after expiry of period of about 12 years. The execution proceedings themselves were filed before the expiry of period of 12 years and in the execution petition, the decree holder prayed for delivery of possession of the share or alternatively for payment of Rs.13,000/- to be made to her by the judgment debtors. So, the prayer of decree holder itself is that the decree holder would be satisfied in either of the two ways indicated in the execution petition and this being so, no fault would be found with the approach of the judgment debtors in saying that they would be paying Rs.13,000/- in satisfaction of the decree.

4. Viewed in this way, I do not see any merit in the petition. The writ petition is dismissed with costs. Rule discharged.

5. The interim relief granted earlier is continued for a period of two weeks from the date of this judgment to enable the decree holder to challenge order of this Court.

[S.B. SHUKRE,J.]