

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.4265/2017

WRIT PETITION NO. 4265 OF 2017

AMOL VISHWANATH ANKUTE
VERSUS
ANANDUBAI CHAINSUKHLAL NAHAR THROUGH GPA PRAKASH
CHAINSUKHLAL NAHAR AND ANOTHER

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Advocate for Petitioner : Mr.Tungar Hrishikesh V

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CORAM : P.R. BORA, J.
Dated: March 30, 2017

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PER COURT :-

1. Heard Shri Tungar, learned counsel appearing for the petitioner.
2. The petitioner has challenged the order passed by the Joint Civil Judge, Junior Division, Beed, below Exh.70 in Regular Darkhast No.213/2013 on 24th of March, 2017. The present petitioner, who is judgment debtor no.2, had filed the aforesaid application seeking leave of the Court for adducing oral evidence. The executing Court has rejected the said application vide the impugned order.
3. It is the contention of the petitioner that the Court below has denied him an opportunity to prove his case and has rejected his application for erroneous reasons. The petitioner has, therefore, sought quashment of the said order and consequently, to allow the application filed by him at Exh.70 before

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the executing Court.

4. Perusal of the impugned order reveals that while rejecting the request of the petitioner, the executing Court has given elaborate reasons. The executing Court has noted that due opportunities were given by the said Court to the petitioner for adducing his evidence. It is further noted that the petitioner after availing two adjournments for adducing evidence, on the third date filed a Pursis stating therein that he does not want to lead any oral evidence. It is further noted that the petitioner, however, placed on record the documentary evidence. The order further reveals that thereafter the matter was posted for arguments and on two occasions adjournment was given at the instance of the petitioner. It is further noted that when the matter was kept for arguments, the petitioner filed an application seeking permission for adducing oral evidence when he had already filed the evidence closed Pursis. The executing Court has further noted that filing of such application was a deliberate attempt on the part of the petitioner to prolong the matter. By recording the reasons as aforesaid, the executing Court rejected the said application.

5. After having perused the reasons so recorded by the executing Court, it does not appear to me that the executing Court has committed any error in rejecting the application filed by the petitioner. From the documents which are placed on record in the

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present petition, it is further revealed that, earlier also, the petitioner had approached this Court since 'No Cross' order was passed against him in the same Darkhast proceedings. By imposing costs of Rs.10,000/- this Court had permitted the petitioner to cross examine the decree holder. It is discernible that the petitioner is making all attempts to prolong the execution proceedings. Since no error is noticed in the impugned order, and no such ground is made out by the petitioner so as to cause interference in the said order, the writ petition stands dismissed.

(P.R. BORA, J.)

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