

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2748 OF 2017**

Almunnisa Javedhusen Balife

..Petitioner

Vs.

Shri Ganeshdas Kisandas Pardeshi & Ors

..Respondents

Mr. A. M. Kulkarni i/b Mr. A. A. Kulkarni for the Petitioner

**Mr. Sanjeev Punalkar a/w Mrs. Leena Sawant i/b Mr. Haridas G. Shukla
for the Respondent No.1**

CORAM : R. M. SAVANT, J.

DATE : 6th APRIL, 2017

P.C.

1 The above Writ Petition takes exception to the order dated 31-8-2015 passed on Exhibit 8 in Special Darkhast No.6 of 2015 as also the order dated 22-11-2016 passed below Exhibits 36 and 46 in the said Special Darkhast No.6 of 2015 passed by the Learned Civil Judge Junior Division, Solapur.

2 The said Special Darkhast No.6 of 2015 has been filed for execution of the compromise decree dated 15-9-2009. In so far as the said application Exhibit 8 is concerned, the same was filed for being handed over possession of the suit property in terms of the said compromise decree. The Executing Court i.e. the Court of Learned Civil Judge Junior Division has by the order dated 31-8-2015 allowed the said application filed by the decree holder. The said order it seems has been executed by obtaining police

protection and pursuant to the possession which has been taken, it is now the decree holder i.e. the Respondent No.1 herein who is in possession of the suit property. In so far as the applications Exhibits 36 and 46 are concerned, they were for directing the judgment debtor i.e. the Petitioner abovenamed, to execute the sale deed and on the Petitioner-judgment debtor failing to do so appoint a Court Commissioner to execute the said sale deed. Both the applications have been allowed by the Executing Court and the Court Commissioner named in the order dated 22-11-2016 has been appointed to execute the sale deed.

3 The Learned Counsel appearing on behalf of the Petitioner states that though compromise decree in so far as possession and execution of the sale deed is sought to be executed, the corresponding obligations imposed on the Respondent No.1 i.e. the decree holder have not been fulfilled by the decree holder.

4 In my view, it is not necessary for this court to delve into the said aspect as it would be open for the Petitioner to urge the said contention before the Executing Court when the matter next comes up before the Executing Court. Hence no interference is called for with the impugned orders. However, with liberty as aforesaid, the Writ Petition is disposed of.

[R.M.SAVANT, J]