

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3673 OF 2017

Manisha Sampatrao Bhosale & Ors. .. Petitioners

v/s.

Balkrishna Shamrao Mhapralkar & Ors. .. Respondents

Mr. Kishor S. Patil for the petitioners

Mr. Pradip R. Kadam for respondent no.1

Mr. Pratik B. Rahade for respondent no.8

CORAM : M.S. SANKLECHA, J.

DATED : 26th SEPTEMBER, 2017

PC.

1. The petitioners have moved this petition for urgent reliefs.
2. Mr. Patil, learned Counsel appearing for the petitioners states that all the respondents have been served, including respondent nos. 6 and 7 and affidavit of service to that effect has been already filed. Respondent nos. 2 to 5 have been deleted.
3. This petition challenges the order dated 16th March, 2017 passed by the Joint Civil Judge, Junior Division, Kolhapur in

execution proceedings. The impugned order dated 16th March, 2017 has directed issuing of a possession warrant in respect of the residential property in possession of the petitioners. The urgency is the possession is likely to be taken tomorrow.

4. Mr. Patil, for the petitioners states that the impugned order has been passed in defiance of the order dated 4th August, 2015 passed by this Court in Writ Petition No.11238 of 2014 between the same parties. This Court permitted the petitioners to file applications in the execution proceedings, which are pending before the executing Court. It is submitted that without deciding applications the impugned order has been passed. All he seeks that the pending applications before the Executing Court be decided along with the main application for execution of the decree. This he submits could be decided in time-bound manner.

5. Mr. Kadam, learned Counsel appearing for the respondent no.1, on instructions of his client, very fairly states that without going into the merits of the petition, to cut the matter short, the impugned order dated 16th March, 2017 could be set aside and the

execution applications be restored to the Executing Court to decide the execution application finally along with the applications filed by the petitioners, which are pending. However, he submits that an outer limit of three weeks from today be given to the executing Court to decide the same on merits.

6. Mr. Patil, learned Counsel for the petitioners, on instructions, states that he will not seek any adjournment and co-operate in disposal of all the applications pending before the executing Court.

7. In view of the above consensus arrived at between the parties, the impugned order dated 16th March, 2017 is quashed and set aside. The executing Court shall pass a final order on the main execution application along with the interim applications, which are pending before the executing Court on or before 1st November, 2017. It is clarified that the Executing Court will decide all the applications in accordance with law, on merits, without being influenced in any manner by this order.

8. The petition is disposed of in the above terms. No order as to

costs.

9. The parties to act upon copy of this order duly authenticated by the Associate of this Court.

(M.S. SANKLECHA, J.)