

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

WRIT PETITION NO.2536/2016

Vidarbha Irrigation Development Corporation

..Vs..

Vatsalabai Anandrao Borkar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATE : 6.2.2017.

Heard Shri J.B. Kasat, Advocate for the petitioner and Shri S.R. Deshpande, Advocate for respondent.

The petitioner has challenged the order passed by the Executing Court allowing the application (Exh. No.39) filed by the decree holder and issuing warrant for recovery of amount of Rs.64,55,070/- against the judgment debtors. The execution proceedings are filed by the respondent / decree holder to execute the award.

In the application filed by the respondent / decree holder before District Judge under Order 21 Rule 11 of the Code of Civil Procedure for execution, the following are shown as the judgment debtors.

- “1. *The State of Maharashtra,
 through its Secretary Revenue and
 Forest Department Mantralaya
 Mumbai.*
2. *The Collector, Yavatmal,
 Tq. and Distt. Yavatmal.*
3. *The Special land Acquisition Officer,
 Minor Irrigation Works No1.,*

Yavatmal, Tq. and Distt. Yavatmal.

4. *The Executive Engineer,
Construction Division, Date College
Road, Yavatmal.”*

This petition is filed by the Vidarbha Irrigation Development Corporation, through Executive Engineer, Yavatmal Irrigation Division, Yavatmal which is not shown as judgment debtor in the application filed by the respondent / decree holder under Order 21 Rule 11 of the Code of Civil Procedure. There is no explanation in the petition how Vidarbha Irrigation Development Corporation has filed this petition.

The petition, as filed, is not maintainable. The petition is **dismissed** with costs quantified at Rs.10,000/- to be paid by the petitioner to the respondent within two months.

As the petition is dismissed as untenable, merits of the challenges raised in the petition are not examined and it will be open for the aggrieved party to raise the challenges to the impugned order, if so advised.

CIVIL APPLICATION NO.1754/2016.

As the petition is dismissed as untenable, the prayer made by the respondent in this application cannot be considered. The civil application is **dismissed**. The respondent is at liberty to proceed with the execution. The amount deposited by the petitioner be given to the petitioner alongwith interest on it, if any.

JUDGE