

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

WRIT PETITION NO. 3780 OF 2018

Abdul Azam S/o Mehtab Sahab Khoriwale
& Ors. ... Petitioners

Versus

Kamladevi Gopinath Agrawal & Ors. ... Respondents

...

Mr. Sachin S. Deshmukh, Advocate for the Petitioners
Mr. V.N. Patil/Jadhav, AGP for the Respondents/State

...

WITH

WRIT PETITION NO. 1408 OF 2018

Abdul Jalil s/o Imamsaheb Khoriwale & Ors. ... Petitioners

Versus

Kamladevi Gopinath Agrawal & Ors. ... Respondents

...

Mr. G.R. Syed, Advocate for the Petitioners
Mr. Ashutosh S. Kulkarni h/f Mr. N.S. Kadam, Advocate for
Respondent Nos. 1 to 7
Mr. Rajendra S. Deshmukh, Advocate for Respondent Nos. 8A to 8C
Mr. V.D. Gunale, Advocate for Respondent Nos. 9A, 9B, 10 and 11

...

Coram : N.M. Jamdar, J.

Date : 28 November 2018

Oral Order :

1 By this petition, the petitioners have challenged the order passed by the Member, Maharashtra Revenue Tribunal, Aurangabad dated 19 December 2017 rejecting the application for impleadment in revision application filed by respondent nos. 1 to 7.

2 The revision filed by respondent nos. 1 to 7 before the Tribunal challenges the order rejecting their impleadment in the execution proceedings, which have been instituted by the other respondents in the petition.

3 It is the grievance of respondents, who are seeking to execute the decree that because of these orders passed in this petition, the execution proceedings which have been directed to be disposed of within time bound period and are not getting decided.

4 As regards, the impugned order in this petition, the learned Judge has proceeded on the basis that the petitioners have not intervened in any of the proceedings earlier not have filed any evidence of being legal representative of deceased Abdul. Learned counsel for the petitioners drawn my attention to the order passed on

13 August 2010 when writ petition no. 1980 of 1998 was disposed of after the dismissal of this writ petition, the order was put to execution. In this writ petition, the petitioners have been brought on record as heirs of deceased Abdul. It is pointed out that the Letter Patent Appeal filed against the order dated 13 August 2010 and also the petitioners are brought on record.

5 In these circumstances, the observations of the learned Judge that the petitioners were nowhere in picture the earlier round of litigation is not correct. As regards, the contention of respondent nos. 1 to 7 that in their revision against refusal of impleadment, petitioners cannot intervene, it is for the clerical purpose at least that the petitioners need to be joined. The other respondents, who are interested in getting the decree executed, have no objection to this impleadment.

6 In these circumstances, keeping all the contentions of the parties open, the impugned order dated 19 December 2017 is set aside and respondent nos. 1 to 7 will join the petitioners in the revision within a period of two weeks from today. In view of the fact that the original revision applicants, who have filed the revision and have been represented in this petition, it is not necessary for the

purpose of this order, which is only passed for completion of record that respondent no.2, who is not been served is required to be heard.

7 As regards, writ petition no. 3780 of 2018 is concerned, it is filed for a simplicitor direction to expedite the proceedings. Apart from whether, such petition should be entertained apart, it is not necessary to issue a fresh direction because an order has already been issued while disposing of the earlier matter that the proceeding be disposed of within time bound period. Therefore, it is expected of the Tribunal to proceed with the execution proceeding at the earliest. The tribunal will no doubt keep in mind that litigants, who are interested in stalling the execution of the decree adopt various methods to achieve their end.

8 The Tribunal will make an endeavor to give priority to the execution proceedings which is pending since last 45 years, and dispose of the same within a period of six months.

9 Registry to send the copy of this order to the Tribunal and communicate the writ forthwith.

N.M. Jamdar, J.