

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6506 OF 2017

MANGALABAI TANAJI NILANGEKAR
VERSUS
SUSHILABAI KESHAVRAO PATIL AND OTHERS

...
Advocate for Petitioner : Mr. Lale Yelwatkar S N

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CORAM : V. K. JADHAV, J.
DATED : 1st FEBRUARY, 2018

PER COURT:-

1. Learned counsel for the petitioner, on instructions, seeks leave to withdraw this writ petition with liberty to file appropriate proceedings before the appropriate forum.

2. It appears that Regular Civil Suit No. 111 of 1993 came to be instituted by one Rajpal (respondent Nos. 1 to 4 are the legal heirs of deceased Rajpal) for decree of specific performance of contract and perpetual injunction against one Eknath and husband of the present petitioner viz. Tanaji. The trial court, by judgment and decree dated 27.03.2001, decreed the said suit and directed defendant No.1 to execute the registered sale deed of the suit land with some other consequential directions. The defendant Nos. 1 and 2 were further directed to give vacant and peaceful possession of the suit land to the plaintiff immediately after execution of the sale deed.

3. It appears that, by this time the decree has attained the finality and as such the decree holder had filed Regular Darkhast No. 15 of 2001 for execution of the said decree. The executing court has also issued possession warrant against the petitioner. The present petitioner has raised objection in the said execution petition. It is the contention of the petitioner that she being the wife of judgment debtor No.2 reside jointly with him and during pendency of the suit the judgment debtor No.2 had transferred the suit land in the name of the petitioner. The executing court has rejected the objection raised on behalf of the obstructionist i.e. present petitioner and issued possession warrant in terms of decree passed in R.C.S. No. 111 of 1993, as aforesaid. Instead of preferring appeal against the said order, passed in execution proceeding, the petitioner has approached this court by filing the present writ petition.

4. In view of above, leave granted. Writ petition is disposed of as withdrawn with liberty as aforesaid. No costs.

(V. K. JADHAV, J.)

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