

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

WRIT PETITION NO.1433 OF 2018

Shri Vishwas Panditrao Jape

... Petitioner

Vs.

Shri Shrikant Bhagwan Phadnis

... Respondent

Mr. Tejesh Dande with Mr. Bharat Gadhavi i/by M/s Tejesh Dande
& Associates for the Petitioner.

Mr.Atul P.Vanarse for the Respondent.

CORAM : G.S.KULKARNI, J.

DATE : FEBRUARY 14, 2018.

P.C.:

**Not on Board. Taken on Board, on a praecipe as moved on
behalf of the Respondent.**

. Heard learned counsel for the parties. As observed in the
order dated 2nd February, 2018, the grievance of the Petitioner
was that though Miscellaneous Application No. 732 of 2017 as
filed by the petitioner which was for restoration of Civil Appeal
No.553 of 2006, which was dismissed for non prosecution by
order dated 21st July, 2017, was pending adjudication, the
Respondent had proceeded to execute the decree. This court had

accordingly directed that no coercive steps to be taken in the Darkhast proceedings.

2. Today considering the overall circumstances Mr. Vanarse appears for the Respondent and on instructions of his client who is present in the court states that the Respondent has no objection for the Miscellaneous Application No. 732 of 2017 as filed on behalf of the Petitioner to be allowed and the order dated 21st July, 2017 passed by the learned District Judge dismissing Civil Appeal No.553 of 2006 for default to be set aside. The approach of the Respondent is fair. In view of this statement made on behalf of the Respondent, this Petition is being disposed of by the following order:-

ORDER

- i. Misc. Application No. 732 of 2017 filed by the Petitioner in Civil Appeal No.553 of 2006 stands allowed. Consequently, Civil Appeal No.553 of 2006 is restored to the file of the District Judge, Pune, to be heard and decided on merits.
- ii. As the appeal is an old appeal, more than ten years old, the learned District Judge shall endeavour to decide the appeal as

expeditiously as possible and preferably within four months from today. The Petition is disposed of in the above terms. No costs.

3. As the Civil Appeal is restored, learned counsel for the Respondent makes a statement that till the adjudication of the appeal, the Respondent shall not proceed with the execution of the decree.

(G.S.KULKARNI, J.)

....