

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

WRIT PETITION NO. 8061 OF 2010

M/s. Pragati Promoters and Developers
Through its partners,
Yashwant Amabachand Jain & Anr.

...Petitioners

Versus

Parvatibai Dhondiram Dalawale
since deceased through legal heirs
Kisan Dhondiram Dalawale & Ors.

...Respondents

.....

Mr.Sujay Gangal h/f. Mr.S.M. Gorwadkar, Senior Advocate for the
Petitioners.

Mr.Shriram S.Kulkarni a/w. Ms.Madhura Deshmukh for the
Respondents.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JUNE 05, 2018**

P.C. :

1. This Writ Petition is directed against the order dated 15th February, 2010 passed by the learned 3rd Joint Civil Judge, Senior Division, Pune, below exhibit 95 in Regular Civil Darkhast No. 156 of 1992. The petitioners, who are the judgment debtors, have filed an application under Section 47 of the Code of Civil Procedure, 1908 raising objections on various points as per the judgment and order passed by the learned Judge of the trial Court in Regular

Civil Suit No. 1919 of 1990. The suit was compromised and it was submitted that as per compromise, the decree holder did not comply with the condition and, therefore, the decree holder is not entitled to get the decree satisfy. The application filed under Section 47 of the C.P.C. was contested by the judgment debtors.

2. Heard submissions. Perused the order dated 15th February, 2010. While deciding the issues, the Executing Court has considered the report of the Court Commissioner so also the evidence and has rightly held that the judgment debtors were required to comply with the condition in respect of construction and partition of the seventh flat and, therefore, they cannot take objection under Section 47 of the C.P.C. It has also held that the claim made by the judgment debtors about financial loss, cannot be the subject matter of the inquiry under Section 47 of the C.P.C. No illegality is pointed out in the order dated 15th February, 2010 passed by the learned 3rd Joint Civil Judge, Senior Division, Pune. No interference is required in the impugned order. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)