

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

WRIT PETITION NO. 781 OF 2018

Mahadev Baburao Nikam	...	Petitioner
V/s.		
Late Baban Shripati Salunke		
(Since deceased)		
Through LRs. & Ors.	...	Respondents

- Mr.Atul Prabhakar Vanarase for the Petitioner.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 24th JANUARY, 2018.

P.C. :

- 1] Heard learned counsel for the Petitioner.
- 2] By this Writ Petition filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 11th September 2017, passed by the Court of Civil Judge Junior Division, Patan, below Exhibit-120 in Regular Darkhast No.69 of 2001.
- 3] The said Application at Exhibit-120 was filed by the Petitioner-Judgment Debtor under Section 47 of the Civil Procedure Code contending *inter-alia* that Shri Baban Shripati Salunke, who has filed the execution proceeding is not the legal heir of deceased Sonubai Shripati Salunke and therefore, he has no right to get the execution of the decree.

4] However, the impugned order passed by the trial Court shows that he was very much party to the suit and in this Writ Petition also, learned counsel for the Petitioner fairly concedes that Shri Baban Shripati Salunke, has party to the suit. In such situation, as he becomes Decree Holder, his right of execution of the decree cannot be challenged. The impugned order therefore passed by the trial Court being just, legal and correct; no interference is warranted therein.

5] Writ Petition, accordingly, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]