

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12951 OF 2017

Manisha Sampatrao Bhosale & Ors.	 Petitioners
V/s.	
Balkrishna Shamrao Mhapralkar & Ors.	 Respondents

Mr. Kishor S. Patil for the Petitioners.

Mr. Pradip R. Kadam for Respondent No.1.

Mr. Pratik B. Rahade for Respondent No.8.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 22ND FEBRUARY 2018.

P.C. :

1. Heard learned counsel for the respective parties.
2. By this Petition, the Petitioners are challenging the order dated 1st November 2017 passed by the 11th Joint Civil Judge, Junior Division, Kolhapur, in Regular Darkhast No.111 of 2012.
3. The only grievance raised by learned counsel for the Petitioners is that, as per the order passed by this Court on 26th September 2017 in Writ Petition No.3673 of 2017, the Executing Court was directed to decide all the applications, which were pending before it, in accordance with law. However, it is pointed out that, application at "Exhibit-298", which was filed by the Petitioners before the Trial Court, is not yet decided. I find much substance therein, because, the impugned order passed by the Executing Court shows that, the Executing Court has not considered the said application on the ground that, the same is filed on record. However, mere order that, "*the application is filed*", is not

sufficient to hold that it is decided on merits in accordance with law, as per the directions given by this Court vide order dated 26th September 2017. Hence, to that extent, it has become necessary to give one more opportunity to the Executing Court to decide the application at “Exhibit-298”, in accordance with law, on merits.

4. The Executing Court shall decide the said application at “Exhibit-298” within a period of two weeks from the receipt of the order of this Court.

5. It is clarified that, the application at “Exhibit-298” is the only application, which is pending and which is yet to be decided.

6. As a result, the execution of the possession warrant is stayed till the Executing Court decides the application at “Exhibit-298”. The Executing Court may pass appropriate orders, in accordance with law, after deciding the application at “Exhibit-298”.

7. Writ Petition stands disposed of in the above terms.

8. Parties to act on the authenticated copy of this order.

[DR. SHALINI PHANSALKAR-JOSHI, J.]