

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9336 OF 2016

Madhav Narayan Sanap & Anr.	 Petitioners
V/s.	
Shivaji Narayan Sanap & Ors.	 Respondents

Mr. Pradeep S. Gole for the Petitioners.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 14TH MARCH 2018.

P.C. :

1. Heard Mr. Gole, learned counsel for the Petitioners.
2. This Writ Petition is preferred against the order passed by the Civil Judge, Junior Division, Yeola, in Execution Proceedings bearing Regular Darkhast No.3 of 2013.
3. The said Execution Petition was filed by the Respondents-Decree Holders for execution of the 'Partition Decree'. As the Petitioners failed to file their say to the said Execution Petition, the order of “No Say” was passed against them on 13th November 2013. The Petitioners then filed the application at “Exhibit-18” for setting aside the said “No Say” order.

The Executing Court has, however, rejected the same and in my considered opinion, this being a procedural order, this Court, in its writ jurisdiction, should not interfere in the said order.

4. If, as per the contentions of the Petitioners, the Execution Petition is not maintainable in accordance with law, they are at liberty to argue the same before the Executing Court, but, it is not necessary to file any 'say', as on the factual aspects, the Executing Court cannot go against the 'Decree'.

5. The Writ Petition, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]