

Jayant
Vishwanath
Salunke

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL APPEAL NO. 79 OF 2018

IN

JUDGE'S ORDER NO. 146 OF 2017

IN

CHAMBER SUMMONS NO. 85 OF 2017

IN

COMMERCIAL EXECUTION APPLICATION (L) NO. 51 OF 2017

IN

APPEAL NO. 407 OF 2016

Prakash Ganpat Sawant	}	Appellant
versus		
Ravindra Babaji Satam and Ors.	}	Respondents

Mr. Udayan Shah for the appellant.

Mr. A. M. Kulkarni-'A' Panel Counsel with
Ms. Jyoti Chavan-AGP for respondent nos.
3 and 4.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATE :- OCTOBER 04, 2018

P.C. :-

1. We have heard Mr. Shah appearing for the appellant.
2. The appellant has been restrained from arguing the proceedings in-person. That is the reason why the High Court Legal Services Authority provided him with services of a lawyer/advocate. We have heard Mr. Shah and with his able assistance, we have perused the appeal paper book.

3. The order under challenge indicates us as to how this appellant was throughout unsuccessful and has indeed been instituting vexatious proceedings. Contrary to every legal cannon and fundamental principles, he goes on instituting and initiating proceedings, which are *per se* not maintainable. No such proceedings, particularly in execution of a decree would lie or can be entertained when the suit, in which such execution proceedings are filed, is itself dismissed. The decree of dismissal of the suit, therefore is incapable of execution and enforcement by taking recourse to this court's power under Order XXI of the Code of Civil Procedure, 1908. These are the reasons assigned by the learned Single Judge in refusing the relief on the common order passed in the Judge's Order, the Chamber Summons and the Commercial Execution Application.

4. As a result of the above discussion, the order under challenge dated 15th January, 2018 does not suffer from any serious legal infirmity or perversity warranting our interference. The Appeal is devoid of merits and it is dismissed.

(B. P. COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)