

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 919 OF 2018

(ISHWAR SADASHIV NARAD THR. LRS & OTH...VS.. SMT. SUNDERBAI JAGOBAJI NAKADE & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.R.Bhongade, Advocate for Petitioners.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 15, 2018.

Heard.

The Petitioners/Judgment Debtors have challenged the common order passed by the executing Court on applications (Exh.1, 77 and 88) by which the executing Court had directed that the proceedings be transmitted to the Collector for effecting partition of the agricultural land as per the decree passed in Special Civil Suit No. 400 of 1997 on 10th March, 2006 with these directions, the executing Court has disposed the execution proceedings.

The submission on behalf of the petitioners is that the execution proceedings for drawing of final decree are not contemplated in case of the agricultural land assessable to land revenue and once the decree is passed in the civil suit, the Court becomes *functus officio*. The submission made on behalf of the the petitioners cannot be disputed. However, in the present case, it has no relevance as I find that the executing Court has not passed any judicial order.

The learned advocate for the petitioners emphasized on the point that the executing Court could not

have directed that the papers be transmitted to the Collector for taking further steps in the matter. This submission cannot be accepted. In paragraph 2 of the order, the executing Court has recorded that the decree passed in Special Civil Suit No. 400 of 1997 on 10th March, 2006 requires that the proceedings of the preliminary decree be sent to the Collector for further action. The executing Court has only performed its duty of complying with the directions given in the decree passed in Special Civil Suit no.400 of 1997, like ministerial staff.

In view of the above, I see no reason to interfere with the impugned order. There is no illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary writ jurisdiction.

The writ petition is **dismissed**. No costs.

JUDGE