

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8335 OF 2016

BISMILLABEE DASTGIR SHAIKH
VERSUS
SOPAN LAXMAN IRLE AND OTHERS

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Advocate for the Petitioner : Shri Halkude S.S.
Advocate for Respondents 1 and 2 : Shri Adgaonkar Ravibhushan P.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th April, 2019

Per Court:

1 The Petitioner/ Decree Holder is aggrieved by the order of the Executing Court dated 11.09.2015. The Executing Court has rejected her two applications Exhibits 36 and 40 by which, she desired an order to be passed against the Judgment Debtor and seek police aid.

2 The grievance of the Petitioner is that the Bandh, separating the land of the Decree Holder on the northern side and the land of the Judgment Debtor on the southern side, is being destroyed by the Judgment Debtor. The Executing Court got the suit land measured by the Court Commissioner. The map was placed on record. The Court noticed that the Bandh was intact. This Court had earlier passed an order dated 06.10.2008 in Second Appeal No.297/2007 wherein, the appeal preferred

by the Plaintiff was partly allowed and it was concluded that both the parties would be entitled for the common beneficial use of the Bandh and none of the parties would damage the Bandh and the common property.

3 The Executing Court, while passing the impugned order, has concluded that the Bandh does not appear to be destroyed in the light of the map and measurement.

4 In view of the above, this Writ Petition, being devoid of merit, is dismissed.

5 Nevertheless, since the execution proceedings Regular Darkhast No.2/2009 are pending for more than 09 years, I deem it appropriate to direct the Executing Court to decide the said proceedings expeditiously and preferably on or before 31.12.2019.

kps

(RAVINDRA V. GHUGE, J.)