

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

WRIT PETITION NO. 14784 OF 2019

M/S. DATTATRAYA LAXMAN TAKSALE
VERSUS
TRIMBAK @ JANARDHAN TUKARAM DHANWATE AND
OTEHRS

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Advocate for the Petitioner : Shri S. S. Panale
Advocate for the Respondent No. 4 : Shri R. K.
Jadhavar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 09th DECEMBER, 2019

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PER COURT :

1. The Petitioner decree holder is aggrieved by the order dated 09/01/2018 passed by the executing Court in Regular Darkhast No. 28/2012 (Old R.D. No. 75/2003), by which, application Exhibit 93 filed by the third party Surekha seeking addition, has been allowed.

2. The learned Advocate for the Petitioner has strenuously criticised the impugned order. He points out the five grounds formulated in the memo of the petition and strenuously submits that the documents

before the executing Court could not have been relied upon and the impugned order deserves to be quashed and set aside.

3. The learned Advocate appearing on behalf of Respondent No. 4 Surekha has defended the impugned order by pointing out that she was already before this Court in the petition involving the same Regular Darkhast No. 28/2012, in Writ Petition No. 7336/2014. Her pleadings are evident from the order passed by this Court on 16/03/2016.

4. I have perused the order which this Court had passed on 16/03/2016 in the above mentioned Writ Petition. It has been recorded in paragraph 3(d) that during the pendency of the proceedings, the decree holder sold the property to Surekha under a registered sale-deed and informed this aspect to the Court by filing a purshis at Exhibit 65. The decree holder has also moved an application Exhibit 67 for seeking possession of the property.

5. From the impugned order, I find that a notarized sale-deed was executed by Bhanudas in favour of Surekha with respect to house No.100, during the pendency of the execution proceedings. Bhanudas has executed one receipt with regard to the acceptance of the consideration of the transaction.

6. Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

7. However, considering the request of the parties and keeping in view that the Darkhast proceeding was lodged in 2003, the executing Court shall conclude the said proceedings as expeditiously as possible and in any case, on or before 30/04/2020.

(RAVINDRA V. GHUGE, J.)

shp/-