

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6251 OF 2019
(Eknath Vishwanath Markad (died) through LR's and others Vs. Balu Babasaheb Kute and others)

Mr.V.S.Undre, Advocate for the petitioners.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/06/2019

PER COURT :

1. The petitioners are aggrieved by the order dated 30/04/2019 passed below Exh.31 filed by the decree holders in RD No.7/2019. The Executing Court has issued possession warrants after recording that judgment debtor Nos.1B and 1F appeared in the execution proceedings, but did not oppose. Judgment Debtor Nos.1A, 1C, 1D and 1E, refused to receive notice sent by the Court on their registered addresses.

2. The petitioners herein are judgment debtor Nos.1A to 1F. It is submitted that judgment debtor No.1 is Sarubai, who is actually Sushilabai. Judgment Debtor No.1F Gangubai Vikram Warade, is actually Gangaram Vikram Shinde. It is, therefore, prayed that the impugned order be stayed.

3. I find from the record that this Court has rejected Second Appeal No.484/2003 by order dated 07/09/2007. The decree has attained finality. The decree holders are struggling to get the benefits of the decree. Considering the conduct of the judgment debtors and merely because there is an error in the names of 2 judgment debtors, would not mean that the impugned order deserves to be stayed or interfered with. 4 judgment debtors refused to accept court notice and 2 judgment debtors did not oppose the execution.

4. In view of the above, I do not find that any interference is called for. This petition is dismissed.

5. At this juncture, learned Advocate for the petitioners seeks leave to withdraw this petition and raise a ground that Sarubai and Gangubai are 2 different persons, before the Executing Court. As such, this petition is disposed off. In the event, the petitioners file such an application with regard to Sarubai and Gangubai, the Executing Court may consider the said application, as may be permissible in Law.

(Ravindra V.Ghuge, J.)