

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITIN NO.9028 OF 2019

Apparao s/o Sheshrao Ghuge

Petitioner

versus

Shahuraj s/o Nagnath Ghuge and others

Respondents

Mr.R.R.Suryawanshi advocate for the petitioner.

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CORAM : **RAVINDRA V. GHUGE, J.**

Date: July 26, 2019

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PER COURT :-

1 I have considered the strenuous submissions of the learned Advocate for the petitioner.

2 The executing Court has already passed an order on 27.1.2019, by which, the decree has been sent to the Collector, Latur for partition of the landed properties, as per the mandate of the decree, in view of section 54 of Civil Procedure Code.

3 The petitioners have moved Miscellaneous Application No.28/2018 and Applications Exhibit 9 and 36, contending that the corrections in the Judgment in RCS No.37/2003 and RD No.06/2013, be carried out. The main proceedings are pending. These petitioners desire that the execution proceeding be stayed as all the Judgment debtors were not arrayed in the execution proceeding.

4 I have perused the impugned order.

5 The Trial Court has rightly recorded that, it has a limited jurisdiction in execution proceedings. The Judgment & decree has not been subjected to any civil appeal. All these years, there has been no prohibitory orders, staying the execution proceeding. The executing Court has relied upon the Judgment of Honourable Apex Court in the matter of ***Atma Ram Properties (P) Ltd versus Federal Motors Private Limited*** (2005 (1) SCC 705) in which the Honourable Apex Court has concluded that, merely preferring an appeal, would not operate as a stay to the decree/judgment appealed against.

6 In view of the above, I do not find any merit in this petition. The impugned order, rejecting Exhibits 9 and 36 cannot be termed as being perverse or erroneous. The executing Court has observed that, it would be dealing with the Miscellaneous Application in accordance with the procedure.

7 As such, this petition is dismissed.

(RAVINDRA V. GHUGE, J)