

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

WRIT PETITION NO. 1932 OF 2019

Raghunath s/o Rajaram Bhandwalkar .. Petitioner
versus
Nirmalaaai Sadashiv Renukar and ors. .. Respondents

Mr D. R. Jaybhar, Advocate for petitioner

CORAM : SUNIL P. DESHMUKH, J.

DATE : 18th February, 2019

ORDER :

1. Heard learned counsel for the petitioner
2. In the writ petition challenge is sought to be posed to order granting withdrawal of *darkhast* proceedings upon the *pursis* Exhibit-117 by decree holder.
3. It appears petitioner claims to be in lawful possession of an area ad-measuring 12 x 4 meters and grievance of petitioner is that the decree holder is trying to disturb the same though that was not the subject matter of suit property nor is concerned with the decree.
4. In this respect, order dated 26-03-2018 by this court in writ petition no. 2154 of 2018 would be pertinent, reading thus:

" 1. Pursuant to the impugned order dated 23/01/2018, learned Advocate for the petitioner submits on instructions that the possession

of the decreed portion of the suit property has already been taken by the decree holder with the aid of the police. However, he is aggrieved because the decree holder is trying to disturb the lawful possession of the petitioner to the extent of 12 x 4 mtrs. Of the land which is not the suit property and is not concerned with the decree. "

2. *Considering the above, this petition is disposed of with liberty to the petitioner to avail of a remedy, as is permissible in law, with respect to his land admeasuring 12 x 4 mtrs. "*

5. Liberty for withdrawal of *darkhast* proceedings cannot be said to curtail right of petitioner to the property he is claiming and would not impede effect of observations under order dated 26-03-2018 referred to above.

6. Writ petition would not be a remedy for reliefs claimed and it is open for petitioner to adopt remedies as may be available.

7. Writ petition is, therefore, not being entertained and is disposed of accordingly.

SUNIL P. DESHMUKH
JUDGE

pnd/-