IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

COMMON ORDER IN

CIVIL APPLICATION NO.26 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.30 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.31 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.33 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.36 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.48 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.51 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.53 OF 2019
IN WP/1910/2010
WITH
CIVIL APPLICATION NO.68 OF 2019
IN WP/1910/2010

Advocate present.

CORAM: H.M.BHOSALE
REGISTRAR (JUDL)

DATED: 07/01/2019

1. This batch of civil applications is taken out by invoking provisions under Rule 23 and 24 of Chapter XVII of the High Court

Appellate Side Rules, 1960 (for short “Rules 1960”) to transmit the order dated 28.6.2011 in Writ Petition No.1910/2010 to the learned Civil Judge, Senior Division, Beed, for execution.

2. Heard the learned advocate for applicants. He submits that there is complete non-compliance of order passed in Writ Petition No.1910/2010 and subsequent orders in Contempt Petition No.282/2012 and 47/2013. Therefore, in view of Chapter XVII Rule 24 of the Rules 1960 the execution petition viz. Exhibit-F, may be transmitted to the Civil Court.

3. Having regard to the grounds set out in the application and submission across the bar, I have given anxious thought to the orders placed on record. It is evident from the record that the Hon'ble Division Bench vide order dated 28.6.2011 in Writ Petition No.1910/2010 directed respondents to pay rental compensation within three months. The respondents have failed to comply with the said order. In turn, the applicants/petitioners have taken out Contempt Petition No.282/2012, wherein the Hon'ble Single Judge of this Hon'ble Court vide order dated 31.8.2012 directed to pay the amount on or before 1.11.2012. However, again there is complete disregard and non-compliance of this order. Therefore, applicants/petitioners have taken out second Contempt Petition No.47/2013, wherein the Hon'ble Division Bench vide order

dated 14.11.2014 directed respondents to examine the claim within two months and thereafter pay the rental compensation within two months.

4. As a result, Deputy Collector (Land Acquisition), Beed examined the claim and directed to pay rental compensation vide order dated 14.9.2015. However, said order was not complied and amount of rental compensation was not paid to applicants/petitioners.

5. Finally, due to non-compliance of this series of orders applicants have taken out these civil applications to transmit the orders along with Execution Petition (viz.Exhibit-F) to the Civil Judge, Senior Division, Beed as respondents have their office within jurisdiction of the said Court.

6. Here reference to Chapter XVII, Rules 23 and 24 of the Rules 1960 may be conveniently made. Rule 23 reads thus:-

> **23. Execution of order or decree on Original Side**. - Any order or decree in a Civil Application under Article 226 of the Constitution passed on the Appellate Side and the non-satisfaction of which has been reported to the State Government under the preceding rule may be transmitted to the Original Side of this Court for execution and, if so transmitted, shall be executed in accordance with the procedure prescribed for execution of decrees and orders in the exercise of the Ordinary Original Civil jurisdiction of this Court.
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> [*Explanation* – An order or decree in a Civil Application under Article 226 of the Constitution of India, decided at the Benches at Nagpur, Aurangabad and Panaji will be transmitted to

the Court of competent civil jurisdiction for execution.]

24. Application for transmission of order or Decree to Original Side or any other Court for execution - (i) Every application for transmitting the order or decree to the Original Side of this Court for execution or for transmitting the order or decree to any other Court for execution under section 39 of the Code of Civil Procedure shall be supported by an affidavit of the applicant and shall be accompanied by a certified copy of the order or decree.

(ii) Applications under the above sub-rule shall be heard and disposed of by the Registrar.

(iii) The Registrar, when transmitting the decree or order, shall send all the documents necessary to be sent under provisions of Order XXI, Rule 6 of the Code of Civil Procedure and such other documents as he may deem necessary to the Court to which the decree or order aforesaid is transmitted for execution. Such documents, except when the transmission is to the Original Side of this Court, may be sent directly by Registered Post to the Court concerned.

7. In addition to this, the Hon'ble parent High Court in the case of Madhavrao Krishnarao Zade vs. State of Maharashtra and others, [2012(1) Mh.L.J. 792], had occasion to deal with an identical issue, wherein it is ruled that execution of an order or Decree under Article 226 of the Constitution of India, decided at the Benches of High Court at Nagpur, Aurangabad and Panaji should be transmitted to the appropriate Civil Court of competent jurisdiction for execution.

8. Taking into consideration the aforesaid non-compliance of orders by the respondents coupled with provision under Chapter XVII

Rule 24 and proposition of law in Madhavrao (supra), it is a fit case to transmit execution to Court of original jurisdiction viz. Civil Judge, Senior Division, Beed by virtue of Section 39 of the Code of Civil Procedure. In turn, I pass the following order...

ORDER

This batch of Civil Applications be transmitted to the Court of Civil Judge, Senior Division, Beed for execution by virtue of Chapter XVII Rule 23 and 24 of the Bombay High Court Appellate Side Rules, 1960 read with Section 39 of the Code of Civil Procedure.

The office shall send all the documents necessary, more particularly "Exhibit-F", along with all relevant orders as per the provisions under order 21 Rule 6 of the Code of Civil Procedure to the executing Court.

REGISTRAR (JUDL)