

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.9387 OF 2011

Gopal Ramchandra Ratnparkhi ... Petitioner
Vs
Sushila Wamanrao Dharmadhikari and Ors. ... Respondents
...
Mr. Ajay A. Joshi for the Petitioner.
Mr. N.P.Mule for the Respondent No.7.
Mr. Shriram Choudhari for Respondent Nos.11 and 12.

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 14, 2019

P.C. :

Petitioner's Civil Suit No.77 of 1989 for partition was decreed. The suit properties consist of movable and immovable properties. The Petitioner was directed to pay additional Court-fees in terms of the inventory report submitted by the Court Commissioner, which is marked as Exhibit 'A' in Darkhast No.196 of 2011. That since the petitioner did not pay Court-fees, may be for want of report, on the movable property, the learned Executing Court rejected his application for execution of the decree. It is against this order, this Writ Petition is preferred.

2 It may be stated that respondents herein have carried the decree in the Second Appeal before this Court in Second Appeal (St) No.9200 of 2018 and this Court vide order dated 28th March, 2018 granted stay only to the extent of handing over possession of the immovable property.

3 It appears from the order impugned that inventory report below Exhibit 8 concerning movable property is not made available to the decree holder/petitioner and, therefore, he could not pay additional Court-fees as directed in paragraph 11 of the preliminary decree. The learned counsel for the petitioner on instructions submits that if the inventory report is made available, the decree holder shall pay Court-fees. Statement is accepted.

4 Thus, taking into consideration facts of the case, the learned Executing Court shall make a copy of the inventory report available to the petitioner within a period of four weeks from today and, thereafter, petitioner shall pay appropriate Court-fees within three weeks therefrom.

5 It is made clear that once the Court-fees is paid by the
Petitioner, the Executing Court shall entertain the application for
execution of the decree subject to the order passed in the Second
Appeal as stated hereinabove.

6 With aforesaid directions, petition is disposed of.

(SANDEEP K. SHINDE, J.)