

the property as described in the execution application, is not located in Survey No.215. In order to ascertain the location of suit structure, it is necessary to appoint Commissioner. It is submitted that the order passed is perverse and not sustainable in law.

3 Learned Counsel for the Respondent-decree holder supported the order passed by the executing Court. It is submitted that there is absolutely no ambiguity in respect of property to be taken in possession in execution of decree. It is submitted that the property has been duly described in the plaint as well as in the decree. Being aggrieved by the concurrent decision rendered by the Court below the Petitioner has filed Writ Petition No.5509 of 1998 which also came to be dismissed by judgment and order dated 02.11.2017 and the application filed seeking appointment of Court Commissioner to identify the suit structure is nothing but an attempt to protract the execution of decree.

4 Having considered the submissions advanced in the light of the order passed by the executing Court, I am of the view, the order passed is quite reasoned and calls for no interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. There is

absolutely no perversity or jurisdictional error committed on the part of executing Court to call for interfere in exercise of writ jurisdiction of this Court. The property has been sufficiently described in the decree passed. It is not in dispute that the property described in the suit is the only property in occupation of the Petitioner as a tenant and decree passed is in respect of same property. In that view the Petition filed by the Petitioner is devoid of merit and substance therein. I am, therefore, not inclined to entertain the Petition. Accordingly, the Petition is dismissed with no order as to costs.

(V.L. ACHLIYA, J.)