

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.632/2019

Smt. Dwarkabai Wd/o Panalal Paliwal and others

..Vs..

Fattelal S/o Sitaram Paliwal and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 15.2.2019.

Heard Shri A.P. Tathod, Advocate for the petitioners.

The objectors before the Executing Court have filed this petition to challenge the order passed by the Executing Court on the application (Exh. No.184) by which the prayer made on behalf of the objectors to exclude certain portions from the affidavit of the decree holders is not decided and the Executing Court has directed that the objectors may ignore this part of the affidavit while cross-examining the witness (deponent). The Executing Court has recorded that the objectors are at liberty to place on record written objection against the objectionable part of the affidavit filed by the decree holders.

Though it cannot be said that the Executing Court has committed any jurisdictional error which necessitates interference by this Court in the extraordinary jurisdiction, in my view, the interests of

justice would be sub-served by directing the Executing Court as follows:

(i) The objectors shall place on record their written objection against the objectionable part of the affidavit of decree holders.

(ii) The Executing Court shall first decide the objection raised by the decree holders and then cross-examination of the witness of decree holder be recorded / conducted.

(iii) This order is passed without notice to the respondents / decree holders as in my view this order would not cause any prejudice to the decree holders and it would save time of the Executing Court and the execution proceedings will not be delayed, however, if the decree holders feel aggrieved by this order, they will be at liberty to approach this Court for review of this order.

The writ petition is **disposed** in the above terms. No costs.

JUDGE