

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Writ Petition No. 3854 of 2019
[Deepak Himmatlal Mehta Vs. Labhechand Ghanshamdas Dhoot]

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

Court's or Judge's orders

Mr. S. R. Deshpande, Adv., for the petitioner.

CORAM : Z. A. HAQ, J.

DATE : 07th June, 2019

1. Heard.

2. The judgment debtor has challenged orders passed by the Executing Court on applications [Exh. No. 26 and Exh. No. 28]. By application [Exh. No. 26], the judgment debtor objected to the maintainability of the execution proceedings, on the ground that decree is obtained by the decree holder by playing fraud on Court. The Executing Court has considered the objection raised by the judgment debtor and giving due weightage to the conduct of judgment debtor and the fact that the objection is raised belatedly after more than twenty years, has rejected the objection [Application - Exh. No. 26]. The petitioner has not been able to point out any illegality or perversity in the consideration of the Executing Court.

By the application [Exh. No. 28], the judgment debtor sought permission to adduce evidence to

substantiate the objections raised by him. This application was filed under Section 151 of the Civil Procedure Code. But, in view of the order passed by the Executing Court on the application [Exh. No. 26], and, in the facts of the case, it cannot be said that the prayer made by the judgment debtor by this application is required to be considered and granted, as the judgment debtor has not been able to point out that exercise of inherent jurisdiction under Section 151 of the Civil Procedure Code is necessitated.

Hence, the Writ Petition is dismissed. No costs.

Judge

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