

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

WRIT PETITION NO.3873 OF 2019

(REKHA GAJANAN DESHMUKH...VS.. MAHADEO SANTARAM KAMBLE.)

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

Court's or Judge's orders

Shri S.V.Sirpurkar, Advocate for Petitioner.
Shri Rahul Dhande, Advocate for Respondent.

CORAM : Z.A.HAQ, J.

DATED : JUNE 06, 2019.

Heard.

2. In execution proceedings (R.D. No. 01/2014) the petitioner (Judgment Debtor) had filed objection under Section 47 of the Code of Civil Procedure. The objector contended that Anusaya Chandrabhan Mote was owner of the suit property and without impleading Anusaya Chandrabhan Mote, the decree holder had filed civil suit and obtained decree for possession. According to the objector, Anusaya is dead and Varsha (daughter of Anusaya) is also not impleaded as party to the proceedings.

On these facts, the objector challenged the legality of decree passed against her. The application filed by the petitioner/objector under Section 47 of the Code of Civil Procedure was dismissed by the executing Court by order dated 15th November 2014. The objector had filed appeal under Order 21 Rule 103 of the Code of Civil Procedure, which is dismissed by the impugned judgment.

3. The subordinate Courts have recorded that the objector has not produced any evidence to substantiate her contention that Anusaya has left a daughter named Varsha and she is required to be impleaded as party to the proceedings. The subordinate Courts have passed the impugned order and judgment adhering to the settled principle that the executing Court cannot go beyond the decree. The approach adopted by the subordinate Courts is proper and in consonance with the legal position. The petitioner/ objector has not been able to point out any illegality or error of jurisdiction by the subordinate Courts which necessitates interference by this Court in the extraordinary jurisdiction. I see no reason to interfere with the impugned order and judgment.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE