

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

WRIT PETITION NO. 40 OF 2019

(NITIN NANDLAL JAISWAL....VS.. NANDLAL GAYAPRASAD JAISWAL & ANR.)

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

Court's or Judge's orders

Shri S.M.Pande, Advocate for Petitioner.
Shri N.R.Mankar, Advocate for Respondent No.1.
Shri Raju Dhobale, Advocate for Respondent No.2.

CORAM : Z.A.HAQ, J.

DATED : MARCH 01, 2019.

Heard.

The Decree Holder has challenged the order passed by the executing Court by which the application (Exh.59) filed by the respondent No.2 (Objector) is allowed and summons is issued to the Branch Manager of Union Bank of India and Branch Manager of Diwan Housing Finance Ltd. to produce documents as mentioned in the application (Exh.59). The contention of the petitioner/Decree Holder is that the documents sought to be produced at the behest of the objector are not relevant in evidence and therefore, they cannot be permitted to be produced. The petitioner/Decree Holder makes a grievance that though this objection was specifically raised before the executing Court, it is not considered while passing the impugned order.

After examining the controversy and going through the impugned order, I find that the learned trial Judge has issued summons to Branch Manager of Union Bank of India and Branch Manager of Diwan Housing Finance Ltd. to produce documents as sought by the objector, considering

the contention of the objector that the decree in Special Civil Suit No.862 of 2016 is obtained by Decree Holder by playing fraud. The impugned order does not reflect objection of the Decree Holder that the documents sought to be produced are not relevant for deciding the controversy.

In my view, the executing Court has rightly not considered the above objection raised on behalf of the Decree Holder. The executing Court could not have examined the relevance of the documents which are not before it. It is obvious that the objection raised by the Decree Holder will be considered by the executing Court after the documents are produced before the Court.

In the above facts, it cannot be said that while passing the impugned order the learned trial Judge has committed any illegality or error of jurisdiction, which necessitates interference by this Court in the extra-ordinary jurisdiction.

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

JUDGE