

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

WRIT PETITION NO.27/2019

Kasam S/o Hira Beniwale another

..Vs..

Chotu S/o Lodu Manjare

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

Court's or Judge's orders

Shri R.N. Ghuge, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATE : 7.1.2019.

Heard.

The objector, who has come on record in execution proceedings as successor-in-title of the original judgment debtor, had filed an application / objection under Section 89 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 read with Sections 47 and 151 of the Code of Civil Procedure before the Executing Court contending that the decree for specific performance of contract granted in favour of the decree holder cannot be executed unless the decree holder obtains permission under Section 89 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 to the effect that he is an Agriculturist. This application / objection is dismissed by the Executing Court by the impugned order.

The Executing Court has recorded that an issue on the point, as sought to be raised by the objector now, was framed during the trial of the civil suit and the

judgment debtor (defendant), by filing a pursis (Exh. No.101 in that civil suit) had not pressed the issue. It is undisputed that the petitioner has come on record as the successor-in-title of the judgment debtor. The Executing Court has rightly recorded that it is not open now for the objector to re-agitate the same point in execution proceedings.

I do not see any patent illegality or error of jurisdiction which necessitates interference by this Court with the impugned order. The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.