

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.610 OF 2021

Pandharinath Jagannath Waghmode Petitioner

Vs.

Vitthal Tuka Waghmode Respondent

Ms. Manisha Devkar for Petitioners.

Coram : NITIN W. SAMBRE, J.

Date : 18th FEBRUARY, 2021

P.C.:

1. An Application Exhibit 63 in Regular Darkhast No.8 of 2011 seeking issuance of possession warrant of the suit property under Order XXI, Rule 35 C.P.C. is taken out by the Respondent-Decree holder. Vide impugned order dated 31st July 2019 passed below Exhibit 63, possession warrant came to be ordered. Below Exhibit 72, an application to provide necessary police assistance to the Respondent-Decree holder is also granted.

2. While questioning the aforesaid two orders, Counsel for the Petitioner-Judgment debtor would urge that the suit property described

in the mortgage deed, of which redemption was sought, the plaint and the decree is identical. According to her, subsequent to the aforesaid events, the boundaries of the suit property have undergone a change and in that eventuality, the decree might be executed against wrong person or wrong property.

3. In my opinion, the aforesaid contention at the behest of the Petitioner that too based on the alleged presumption, without any basis cannot be accepted as in case if the decree is executed under a wrong property, there is appropriate remedy available to the aggrieved person. That being so, no case for interference is made out. Petition fails. Dismissed.

(NITIN W. SAMBRE, J.)