

1. Heard respective Counsel.
2. The suit being Special Civil Suit No.2225 of 2009 for specific performance at the behest of Respondent- decree holder was decreed by the learned Civil Judge, Senior Division, Pune by judgment and order dated 7th April, 2011. I am informed that said decree was confirmed upto the Apex Court as the judgment-debtor remained unsuccessful throughout.

3. In Special Darkhast No. 148 of 2018, one of the judgment debtors raised an objection for execution of the decree of specific performance dated 7th April, 2011 passed in Special Civil Suit No. 2225 of 2009 contending that the suit property has been attached by the Income-Tax Authorities. Hence decree-holder be restrained from transferring the suit property. The said issue came to be decided by the learned executing Court, which order at the behest of the Petitioner was confirmed upto the Apex Court in Petition(s) for Special Leave to Appeal (C) No.4684 of 2015.

4. In the aforesaid backdrop, the Petitioner, one of the judgment debtor moved similar application, Exhibit 60, praying that the property cannot be transferred, which was rejected vide order impugned.

5. The submissions are, once the property is under attachment of the Income-Tax Department, the same cannot be subject matter of the execution proceedings.

6. I have appreciated the aforesaid contentions in the backdrop of the fact that the decree was confirmed against the Petitioner upto the Apex Court.

7. Admittedly, the Income-Tax Department has intervened as an objector in the execution proceedings.

8. The Petitioner- Judgment debtor for one or the other reason has not permitted the decree holder to execute the decree for last more than 10 years, which has prompted the Respondent to claim exemplary costs from the Petitioner.

9. From the aforesaid narrations, it is aptly clear that from one or the other reason judgment debtor is taking out objections in the execution proceedings so as to delay the execution of the decree. This Court is required to be sensitive to the fact that the decree passed by the trial Court was confirmed upto the Supreme Court. In the aforesaid background, no case for interference is made out. The petition fails, stands dismissed with costs of Rs.15,000/- to be deposited by the

Petitioner/ Judgment debtor in the executing Court, within a period of four weeks from today.

10. The deposit of costs shall be a condition precedent for taking out any other proceedings against the decree-holder.

11. In view of dismissal of the Writ Petition, the Civil Application does not survive, the same is accordingly disposed of.

(NITIN W. SAMBRE, J.)