

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

WRIT PETITION NO.230/2021
Smt.Monika w/o Abhijit More

..VS..

Hansraj s/o Sonbaji Bambale (deceased) through LRs Shri Bhimraj Hansraj
Bambale and ors

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

Court's or Judge's Order

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Shri C.H.Bhagwani, Counsel for the Petitioner.

CORAM : V.M.DESHPANDE J.
DATED : JANUARY 12, 2021.

1. This writ petition is filed by the petitioner who was not party to suit which was decreed in part by learned Trial Judge on 17.12.2007 and decree of refund of earnest amount was given to the original plaintiff.

2. Respondent Nos.1-A to 1-F in this writ petition are legal representatives of original plaintiff. The original plaintiff being aggrieved by non granting decree of specific performance of contract filed an appeal which was registered as Regular Civil Appeal No.311/2012 which was decided by lower appellate court on 27.7.2015 and decree of specific performance of contract was granted in favour of original plaintiff. During course of submission, learned counsel for the petitioner submitted that said judgment and decree was challenged before this Court in second appeal by original judgment debtor. However, the said second appeal was also

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dismissed by this court.

3. The original decree holder Hansraj passed away and, therefore, his legal representatives filed execution proceedings. The said registered as Special Darkhas No.204/2015. The present petitioner who is daughter of judgment debtor filed an objection under Section 47 of the Civil Procedure Code before executing Court. The said is rejected by learned executing court by passing order below Exhibit 190 on 7.12.2020. Against that, the present writ petition is filed.

4. In the objection, in paragraph No.2, it is specifically stated by objector that her father Laxman, the judgment debtor, purchased property by registered sale deed dated 1.7.1990 which is registered at Sub Registrar Office No.2. That shows that property in question was not ancestral property but it is self acquired property.

5. In this view of the matter, I am of opinion that no error is committed by the executing court. The writ petition is dismissed. No costs.

JUDGE

!! BRW !!

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