

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

WRIT PETITION NO. 2000 OF 2021

Ganesh Balkrishna Bhoyar

vs.

Smt. Prabha w/o Rambhau Deshmukh (since deceased) through LRs.
Yadavrao s/o Rambhau Deshmukh and others

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

Court's or Judge's Orders.

Mr. V. D. Muley, Advocate for petitioner.

CORAM : MANISH PITALE J.

DATE : 17th JUNE, 2021

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. By this writ petition, the petitioner has challenged two orders passed by the Executing Court, whereby objection raised by the petitioner (judgment debtor) was rejected and police aid was granted to the decree holder respondent for execution of the decree.

3. It is vehemently contended by the learned counsel appearing for the petitioner that the portion

of the property which was subject matter of the decree was already vacated by the petitioner and that now the respondent decree holder was seeking to execute the decree in respect of the portion of property which is not subject matter of the decree.

4. A perusal of the objection filed before the Executing Court shows that apart from the said contention it was also sought to be contended that a Will deed relevant to the present case had not been proved in accordance with law.

5. In the impugned order, the Executing Court has correctly found that the issue pertaining to Will could certainly not be gone into in execution proceeding. The Court below has also adopted a correct approach with regard to the other objection raised on behalf of the petitioner regarding identification of property. Once, it is found that the objection raised on behalf of the petitioner is without any substance, no error can be attributed to the Executing Court in having granted police aid for Execution of the decree.

6. The Executing Court is directed to ensure that the decree is executed in terms of the decree

passed by the trial Court and the specific portion of the property identified by the marking “A, B, C, D” is delivered to the respondent decree holders.

7. Writ Petition stands dismissed. No costs.

JUDGE