

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

LETTERS PATENT APPEAL NO. 285/2010 IN W.P. NO. 372/2010 (D)

(SHIVRATAN SAHAKARI GRUHNIRMAN SANSTHA LIMITED, AKOLA **VERSUS**
 VIDYADEVI KRUPALDAS TAKARANI & ANOTHER)

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

Court's or Judge's order

Shri S.A. Mohta, counsel for the R-2.

CORAM : A. S. CHANDURKAR AND SMT. PUSHPA V. GANEDIWALA, JJ.

DATED : 21ST JUNE, 2021

None for the appellant. Perused the records.

The respondent no.1 herein had filed R.C.S. No.626/1996 for removal of encroachment, possession and perpetual injunction against one Rajendra Laddha. The suit filed by the respondent no.1 was decreed after which the decree was put to execution. The appellant which is a Co-operative Society claiming a right in the said suit property filed a dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 seeking a declaration that the sale-deeds executed in favour of the respondent no.1 were not binding on the Society. In the execution proceedings the appellant filed an objection under Order XXI Rule 9 of the Code of Civil Procedure, 1908 while the opponents in the dispute sought stay of the dispute before the Co-operative Court till adjudication of the execution proceedings. The Co-operative Court rejected those applications and that order was maintained by the Appellate Court. The said order was challenged by the respondent no.1 in Writ Petition No.372 of 2010 and the learned Single Judge by the order dated 20.04.2010 allowed the said writ petition and stayed the proceedings that were pending before the Co-operative Court till the objection raised by the present appellant in the execution proceedings was decided. This order is the subject matter of challenge at the instance of the appellant.

Shri S.A. Mohta, learned counsel for the respondent no.2 on instructions submits that the objection that was pending before the Executing Court has now been decided and hence nothing survives for adjudication in the present appeal.

It is seen that this Court on 27.01.2011 has refused to grant any stay to the order passed by the learned Single Judge as a result of which the Executing Court proceeded to decide the objection raised by the present appellant. We thus find that with the adjudication of that objection nothing survives for adjudication in the present letters patent appeal. It is accordingly disposed of as having been rendered infructuous leaving the parties to bear their own costs.

(SMT. PUSHPA V. GANEDIWALA, J.)

(A. S. CHANDURKAR, J.)

APTE