

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8370 OF 2022

MOHAMMAED IMAMUL HAQUE MAZHARUL HAQUE
VERSUS
M/S SHIVA ENTERPRISES AND OTHERS
(Board dt.17.08.2022)

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Advocate for the Petitioner : Shri Jadhav Hanumant P.
AGP for the Respondents/State : Shri P.S. Patil

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CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.

DATE :- 19th August, 2022

Per Court :-

1. The petitioner has put forth prayer clause B as
under:-

*“B) Rule may kindly be made absolute and by
issuing appropriate writ or direction in the like
nature, the application Exh.7, 33 and 35 filed
by petitioner in Spl. D. No.62/2017 may kindly
be directed to be decided within one month
with further direction to expedite the
proceedings of Spl. Darkhast No.62/2017
pending Civil Judge, Senior Division,
Aurangabad.”*

2. Exhibit-7 pertains to the issuance of warrant of
attachment, which is dated 01.03.2018. Exhibit-33 is with regard

to the issuance of warrant of arrest, which is dated 02.09.2021. Exhibit-35 is an application seeking particulars of the assets of the Judgment Debtors dated 02.09.2021. Special Darkhast No.62/2017 pertains to the decree dated 31.07.2017 delivered in First Appeal No.114/2006. It is contended that Second Appeal (stamp) Nos.35738, 35740, 37849 and 41483 of 2017, have been refused registration on account of non removal of office objections vide the order of the Registrar (Judicial) of this Court, dated 13.06.2018.

3. Considering the law laid down by the Honourable Supreme Court in *Radhey Shyam and another vs. Chhabi Nath and others, (2015) 5 SCC 423* (a three Judges Bench decision), we do not deem it appropriate to issue a Writ of Mandamus to a judicial officer, who is dealing with the special darkhast proceeding, which is only five years old.

4. In view of the above, this Writ Petition is disposed off.

5. Needless to state, the pending execution proceedings would be considered as per the date of it's registration.