

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9478 OF 2022

Dnyaneshwar Angad Kendre

PETITIONER

VERSUS

Narayan Namdeo Shirsat and Another

RESPONDENTS

.....

Mr. Amit S. Deshpande, Advocate for the petitioner

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 4th OCTOBER, 2022

ORDER :

1. The petitioner, being son of the Judgment Debtor, has filed application Exhibit-21 in Regular Darkhast No. 1 of 2020, thereby raising objection to the execution, with a prayer to add him as party in the proceeding claiming that the suit property is a joint family property and it was not sold for joint family necessity.

2. After hearing the petitioner, the Executing Court rejected the application, holding that the objection petitioner has not challenged the decree before appropriate forum and he has a remedy seeking declaration of his right before appropriate forum. It is observed that the Executing Court is bound by the

decree and there is only a small window for objection entertained under section 47 of the Civil Procedure Code and the objection raised by the petitioner does not fall within the scope permitted for the Executing Court.

3. Learned advocate for the petitioner submits that the petitioner has already filed a separate suit challenging the decree sought to be executed in RD No.1 of 2020. The petitioner may prosecute the suit.

4. Having heard the learned advocate for the petitioner and after perusal of the grounds raised in the writ petition and the impugned order, this Court is of the view that the Executing Court is justified in rejecting the application filed by the petitioner.

5. There is no illegality or perversity in the order impugned in the present writ petition to exercise extraordinary writ jurisdiction. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE