

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2484 OF 2022**

KUMAR BHIMRAO DAVANE ... Petitioner.

V/s

MARTAND KESHAV DABHADE

(Since deceased through
Legal heirs)

A) Smt. Nanda Martand Dabhade & Ors. ...Respondents.

Mr. Yuvraj P. Narvankar for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: MARCH 07, 2022

P.C.:-

1] Learned Counsel for the Petitioner submits that, even in execution proceedings, Petitioner, if permitted to participate, he shall take appropriate steps in getting the notarized Relinquishment Deed appropriately stamped and registered. Said statement is accepted.

2] In the aforesaid background, my attention is invited to Exhibit-99 moved by the decree holders in Regular Darkhast No. 92 of 2011 wherein decree holders have abandoned their claim in execution as a notarized agreement in favour of the present Petitioner is executed by decree holders. Vide impugned order passed below Exhibit-42, Executing Court in Regular Darkhast No.91 of 2011 has rejected prayer of the Petitioner for impleadment on the ground that

above document i.e. Relinquishment Deed is not a registered document and appropriate stamp duty is not paid.

3] As far as observations in the impugned order are concerned, needless to state that original decree holders have abandoned their claim in favour of the Petitioner as is apparent from the pursis tendered by them in Darkhast. Whether the Petitioner, under unregistered Relinquishment Deed, has lawfully gained any right could be looked into by the Executing Court while deciding maintainability of the executing proceedings at the behest of the Petitioner. However, *prima facie* it appears that, Petitioner's claim is supported by decree holders. As such, since the prayer is not objected by decree holders it should have been granted by the court below.

4] That being so, order impugned is quashed and set aside with permission to the Petitioner to participate in the execution proceedings. Needless to clarify that the Court has not interfered with the reasoning furnished in the order impugned on the issue of evidentiary value of notarized document dated 21/3/2016. Whether such execution is maintainable at the behest of the Petitioner can be gone into independently by the Executing Court after appreciating the same.

5] With the above observations, Petition stands disposed of.

(NITIN W. SAMBRE, J.)