

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5755 OF 2021

Shri. Shamrao Raval Raut

Since deceased through legal heirs

Smt. Nirmala Shamrao Raut and Ors.

..Petitioners

Versus

Shri. Chandrakant Raval Raut and Ors.

..Respondents

Mr. Drupad S. Patil, for the Petitioners.

Ms. Manisha Devkar, for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 14th FEBRUARY, 2022

PC.

1. The order passed below Exh.1 in Regular Darkhast No.272 of 2007 is questioned by the judgment debtor on the ground that the Court below has failed to consider the very scheme and scope of Section 54 of the CPC. Mr. Drupad Patil would urge that the execution of the compromise decree is referred to the Collector whereas it was the duty of the Executing Court to look into the same and record finding whether the decree is executable as according to him the subject matter is hit by the Prevention of Fragmentation Act. He would further claim that since the property in question is taken shape of non-agricultural property, the Collector is ceased to have the execution proceedings.

2. Ms. Manisha Devkar, learned counsel for the decree holder would oppose the submissions and claim that the order is just and proper.

3. Considered submissions.

4. In the background of the fact that the petitioner is a party to the compromise decree and has agreed to the same, in my opinion, cannot raise aforesaid objections to frustrate the very execution of the compromise decree.

5. Apart from above, the Collector to whom the reference is made by the Executing Court is expected will be passing an appropriate order in accordance with law.

6. Having regard to the fact that the petitioner is not cooperating in execution of the compromise decree for last more than 15 years has rightly prayed by the counsel for the respondent, the hearing of the execution proceedings is expedited.

7. As such, petition stands disposed of in the above terms.

[NITIN W. SAMBRE, J.]