

SHALIKRAM
PRALHADRAO
BOREY

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

WRIT PETITION 7307 OF 2015

Sanjay Damu Nikam & Ors. ... Petitioners.

Versus

Sahebrao Gangadhar Kadam & Ors. ... Respondents.

Ms. Smita R. Gaidhani, Advocate for the Petitioners.

Mr. Milind Sathaye, Advocate i/by Mohsin N. Panjwani for
Respondent 1.

Ms. Jyoti Bajpayee, Advocate for Respondents 3, 4, 6 & 7.

CORAM : ROHIT B. DEO, J.

DATE : JULY 14, 2022

P.C. :-

1. Learned Executing Court has decided application under section 47 of the Civil Procedure Code, 1908, which is preferred by the Petitioners herein in Special Darkhast 22 of 2009.

2. Having heard the learned counsel for the parties at some length, I am satisfied that the cryptic order does not consider, much less determine all the issues involved. The order

impugned further does not consider all the rival contentions.

3. I am consciously refraining from making any further observation since the parties have agreed that the following consent order can be passed :

- (i) The Order impugned dated 26.03.2015 is set aside.
- (ii) The learned Executing Court is requested to decide the application exhibit 84 in Special Darkhast 22 of 2009 afresh on the basis of the material on record and needless to observe, after giving due opportunity to the parties to put-forth their respective case.
- (iii) The learned Executing Court is further requested to expedite the disposal of application exhibit 84.
- (iv) It is further made clear that, other than deciding exhibit 84, no further steps shall be taken by the Executing Court till a period of 10 days after the decision of exhibit 84.

4. Petition is disposed of.

5. It is needless to observe that every contention of the Petitioners and, then in rebuttal, of the Respondent is kept expressly open for the Executive Court to determine on its own merit.

(ROHIT B. DEO, J.)

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