

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2303 OF 2022

(Chandrikaprasad s/o Ambikaprasad Sharma Vs. Kusumbai w/o Pandurangji Parate
and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. T. J. Patil, Advocate for Petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 29th APRIL, 2022.

The petitioner is the original defendant in Regular Civil Suit 54/1975 who has suffered decree for possession of the suit property.

2. The petitioner preferred appeal which is dismissed. Second appeal was preferred before the High Court which again was dismissed and the Special Leave Petition preferred by the petitioner was then dismissed by the Hon'ble Supreme Court.

3. The decree-holder preferred application Exh-31 in Regular Darkhast 47/2016 for issuance of warrant of possession which the Executing Court allowed vide order 11.03.2022. The petitioner – judgment debtor also preferred application Exh-34 seeking direction to the decree-holder to produce the sale-deed of the suit property on record for verifying the suit property before issuing possession warrant.

By reasoned order dated 11.03.2022 the said application was dismissed.

4. The Executing Court rightly observed that it would not be possible to go beyond the decree.

5. The petitioner is aggrieved by the aforesaid orders.

6. Having heard the learned counsel for the petitioner, I have no hesitation in holding that the only attempt is to some how or the other delay the execution and to deprive the decree-holder the fruits of the decree, to enjoy which, the decree-holder is litigating since the last forty-seven years.

7. While the learned counsel for the petitioner submits that some portion was not included in the decree may be taken possession of, there is absolutely nothing on record for me to arrive at such conclusion. The presumption is that the execution shall be qua the property which is the subject-matter of the decree and I have no reason to entertain any doubt.

8. The petition is dismissed.

9. The trial court is directed to complete the execution as expeditiously as possible and in any event within the next two weeks.

10. The learned Registrar (Judicial) shall bring this order to the notice of the Executing Court within the next forty-eight hours.

JUDGE

NSN