

AGK

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

WRIT PETITION NO.12825 OF 2019

Vaman Ramchandra Katkar ... Petitioner

V/s.

Ramchandra Savala Katkar,
deceased & Ors. ... Respondents

Mr. Laxman Kalel for the petitioner.

Mr. Karam Bhosale with Ms. Anuja Divadkar and Ms.
Ruchi Pawar i/by NDB Law for the respondents.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 12, 2023

PC.:

- 1.** The petitioner is challenging order passed by the Executing Court recording compromise entered into between the parties.
- 2.** According to the petitioner, there is fraud played by the respondents and, the order of disposal of the execution petition is obtained by fraud.
- 3.** The Apex Court in **Pushpa Devi Bhagat v. Rajinder Singh** reported in (2006) 5 SCC 566 has held that in such a situation, only remedy available with aggrieved person is to approach same Court by way of an application and the remedy of filing writ petition is not available. Therefore, it will be open for the petitioner to approach the Executing Court by way of an application to agitate the grievance made before this Court.

4. If such an application is filed, the Executing Court shall decide the application on its own merits in accordance with law.
5. All contentions of the parties are kept open to be agitated before the Executing Court.
6. With this clarification, the writ petition stands disposed of.
No costs.

(AMIT BORKAR, J.)