

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10015 OF 2019

...Petitioner

Versus

...Respondents

Mr. Arjun S. Pawar, for Respondent No.1.

DATED : 24th JANUARY 2023

P.C. :

1. Heard Mr. Avinash Avhad, learned counsel appearing for the Petitioner and Mr. Arjun Pawar, learned counsel appearing for Respondent No.1.

2. The impugned orders in the present Writ Petition are the orders dated 21st January 2015 passed below Exhibit 86 in Regular Darkhast No.6 of 2003 and order dated 21st June 2019 passed below Exhibit 96 in Regular Darkhast No.6 of 2003.

3. The Petitioner is admittedly the heir and legal representative of original Defendant No.2. By Regular Darkhast No.6 of 2003, the decree dated 31st December 1992 passed by the learned Civil Judge, Junior Division, Daund in Regular Civil

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Suit No.51 of 1984 is sought to be executed. It is admitted position that the said decree has been confirmed upto the Supreme Court.

4. The only contention of the Petitioner is that the suit property is partly demolished therefore, it cannot be identified. The learned Executing Court has come to the conclusion that the suit property is identified by boundaries and therefore, decree can be executed.

5. Apart from challenging order dated 21st June 2019, the Petitioner is also challenging the order dated 21st January 2015. The petition challenging the order dated 21st January 2015 is filed in September 2019 i.e. after almost 4 years and 8 months. There is no explanation given for delay in filing the petition.

6. It is admitted position that as the Petitioner is heir and legal representative of Judgment Debtor No.2, he is unable to point out any independent right, title and interest in the suit property. Therefore, the Writ Petition is dismissed however, with no order as to costs.

[MADHAV J. JAMDAR, J.]