



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

WRIT PETITION NO.6014/2023

(Prafulkumar s/o Mahadeosingh Chauwhan Vs. Gunderao s/o Chandulal Doshetwar (dead) Thr. LR's
Shashikala wd/o Gunderao Deshatwar and others

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

Court's or Judge's orders

Shri S.R.Rao, Advocate for Petitioner.

CORAM : ANIL S. KILOR, J.
DATED : SEPTEMBER 08, 2023.

1. The application moved by the petitioner, who is judgment debtor, praying for dismissal of execution proceedings on the ground that he has handed over vacant possession of the suit premises, came to be rejected vide order below Exh.22 dated 28.4.2023 passed by the Civil Judge, Jr. Dn.Kamptee. The same is the subject matter of the present petition.

2. The learned Executing Court, after considering the contention of the judgment debtor/petitioner that the petitioner has handed over the possession of suit property while rejecting the application has recorded the finding, which read thus:

"It is the main contention of the JD that he has handed over vacant possession of the suit premises, which description given in paragraph No.1 of RCS No.1651/2004 consisting two rooms, out of which one is at ground floor and another is at first floor. In this respect I perused Exh.1 wherein the

description of suit premises is given in column No.11, which mentioned house No.0/107, situated it in Ward No.22, Shivaji Nagar, Near Jaistamb, Nagpur-Jabalpur Road, Tah. Kamptee, Distt. Nagpur comprising one room in ground floor and another in first floor occupied by the JD as a tenant. Here it pertinent to note that the JD has admitted the said description of the suit premises. However, the JD has not filed any document on record which shows that he has handed over vacant possession of the suit premises to the DH. That apart, I perused possession warrant report adduced by the concerned Bailiff which are at Ex.11 and 14, wherein the concern Bailiff mentioned in his report that the JD has closed the portion of ingress and egress by using bricks, tin shed and iron door and due to which possession could not be given. The said report demonstrate that the JD has not received possession of the suit premises. In these circumstances, I am of the considered opinion that there is no forceful substance in the objection raised by the JD, particularly in respect of description of the suit premises. Thus, the present objection application is liable to be rejected. With this, I pass following order:

ORDER

The application is rejected.”

3. After going through the finding recorded by the Trial Court, I do not find any illegality or perversity committed by the Trial Court. Accordingly, the petition is dismissed.

JUDGE