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

Writ Petition No.6265/2023

Mansukhlal s/o Sundarji Thakkar,
Aged about 70 years, Occ.-Business,
R/o. Bazar ward, Guru Nagar, Bhadrawati,
Tq. Bhadrawati, Distt. Chandrapur.

.... Petitioner

Versus

Santosh Tarachandji Tated,
Aged About 47 years, Occ.-Business,
R/o.-Jain Mandir complex, Bhadrawati,
Tq. Bhadrawati, Dist. Chandrapur.

.... Respondent

Mr. A.M. Chandekar, Adv for petitioner.

Mr. M.P. Khajanchi, Adv for respondent.

CORAM : AVINASH G GHAROTE J.

DATE : 07-10-2023

Oral Judgment

Rule. Rule is made returnable forthwith.

2. The petition questions the order dated 24-08-23 passed by the Executing Court on an application for grant of police aid for issuance of warrant of attachment of movable property (pg 36). It is contended by Mr. Chandekar, learned Counsel for the petitioner that the attachment is being sought against the movables which actually do not belong to the judgment debtor but to the petitioner who is not bound by the decree, as if it is the independent property of the petitioner's father i.e. the judgment debtor and the objection raised in this behalf on 03-08-2023 ought to have been decided.

3. Though for the learned Counsel for the respondent opposes, as

an objection has been raised that the property included in the list of movables which is to be attached is claimed not to be belonging to the judgment debtor, the same will have to be decided, so that an effective warrant could be issued. In that view of the matter, the impugned order is hereby quashed and set aside.

4. The matter is remanded back to the learned Executing Court to decide Exh-18-the application raising objection to the attachment filed by the present petitioner.

5. Since a reply has already been filed to that application, the Executing Court shall decide the same within a month from the date on which this order presented before him.

JUDGE