

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

WRIT PETITION NO.3074 OF 2018

The Asiatic Oxygen and Acetylene Company Ltd., .Vs. Sardar Swarnsingh S/o
Delipsingh Soni and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.M. Patwardhan, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 05/06/2023

1. Heard.

2. In the present writ petition, the judgment and order dated 01.09.2017 passed by the 7th Jt. Civil Judge Jr. Dn., Nagpur in Regular Darkhast No.313 of 2016 dismissing the Darkhast proceeding on the ground that it is barred by limitation, is under challenge.

3. Admittedly, the judgment and decree which the petitioner wants to get executed, was passed on 30.04.1993. Furthermore, undisputedly the Regular Darkhast No.313 of 2016 was the third attempt whereby, the petitioner tried to get executed the judgment and decree dated 30.04.1993. Earlier, two Darkhast proceeding were rejected on the same ground i.e. barred by limitation. The petitioner has not challenged both the orders passed earlier

dismissing the Darkhast proceeding on the ground of limitation.

4. In the present matter, the executing Court has rightly held that the limitation under Article 135 of the Indian Limitation Act, for execution of mandatory injunction is three years from the date when the mandate of decree became executable. The execution proceeding was admittedly filed after 23 years and 7 months.

5. Thus, in the above referred backdrop, I do not find any error committed by the learned trial Court in dismissing the execution proceeding namely Regular Darkhast No.313 of 2016 vide impugned judgment and order dated 01.09.2017. Accordingly, the writ petition is **dismissed**.

JUDGE