

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

WRIT PETITION NO. 1749 OF 2019

Saista Begum Akbar Ali _ Vs. _ Rajkumar Asaramji Mundle and ors

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

Court's or Judge's orders

Mr. A.N.Ansari, Advocate for petitioner
Mr. P.S.Tiwari, Advocate for Respondent No.1

CORAM : AVINASH G. GHAROTE, J.
DATE : 04/01/2023

1] Heard Mr. Ansari, learned counsel for the petitioner and Mr. Tiwari, learned counsel for respondent no.1. None for other respondent though served.

2] The petition challenges the impugned order dated 10.04.2018 (pg.54), whereby the application of the petitioner for impleading herself as a party to the execution proceedings viz. Regular Darkhast No. 2/2015 has been rejected by the learned Executing Court.

3] Mr. Ansari, learned counsel for the petitioner submits that since the petitioner was a party to Regular Civil Suit No. 9/2012, decided on 13.08.2014, the decree as passed therein is put to execution in R.D. No.2/2015, and in order to protect her interest, she would be a necessary party.

4] It is material to note that though the petitioner was party Defendant No.5 in R.C.S. No.

9/2012, the decree dated 13.08.2014 passed therein is not against the present petitioner, but is against the defendant Nos.1 to 4 therein.

5] That being the position, the decree has rightly been put to execution against the defendant Nos. 1 to 4 in R.C.S. No. 9/2012. The petitioner/defendant No.5 in R.C.S. No. 9/2012 therefore is neither necessary nor a proper party for execution of decree. I do not see any reason to interfere in the impugned order. The petition is dismissed. No costs.

JUDGE

Rvjalit