



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

111 WRIT PETITION NO. 1786 OF 2015

PRAKASH KADAJI KONALE THROUGH GPA PHULABAI BABRUWAN BHOSALE
VERSUS
MADHAV GANGARAM BAJULGE AND OTHERS

...
Advocate for the Petitioner : Mr. Kale Mahesh P.
Advocate for Respondents 3/1 : Mr. R.K. Ashtekar
Advocate for Respondent 5 : Mr. B.A. Shinde
...

CORAM : ARUN R. PEDNEKER, J.

Dated : October 07, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. It appears that decree was executed in it's entirety. Thereafter an application came to be moved by the judgment debtor, seeking repossession of the land as they had standing crop on the said land. Although the land was given to decree holder in execution of the decree, it appears that judgment debtor had standing cultivated crop on land at the time of delivery and thereafter, by virtue of the impugned order, the land was directed to be handed over to the judgment debtor due to the standing crop on the land. It was submitted that the procedure is not followed in handing over the possession to the decree holder. It is observed in the impugned order that when standing crop was on the land, the possession ought not have been given to the decree holder. It is also observed in the impugned order that when there was standing crop, the bailiff ought to have reported the same to the Court. This Court stayed the impugned order in the present writ petition subject to depositing total amount of value of the crop.
3. The petitioner has deposited Rs.1,11,000/- before the Executing

Court. By virtue of order passed by this Court dated 20.2.2015, petitioner has again deposited amount of Rs. 1,00,000/- before the Executing Court in Regular Darkhast No. 40/2013. In view of the above the Executing Court was asked to ascertain the actual value of the standing crop and the report of the Assistant Superintendent which is filed on record indicates the value of the crop. The said amount as noted in the above report be given to judgment debtor. The balance amount be refunded to the petitioner. The impugned order dated 31.1.2025 in R.D. No. 40/2013 is quashed and set aside with above directions. Writ petition is accordingly disposed of.

(ARUN R. PEDNEKER, J.)

ssc/