



This Order is Speaking to Minutes order of order dated //

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3475 OF 2024

Ashokkumar Bandrinarayan Bharadiya

VERSUS

Janabai Dattu Mahske Alias Janabai Bankush and others

Mr. D. R. Deshmukh, Advocate for petitioner.

CORAM : R. M. JOSHI, J.

DATE : 26th NOVEMBER, 2024

PER COURT :-

1. Not on board. Taken on board at the request of learned counsel for the petitioner.
2. This is a motion for speaking to the minutes of the order dated 21.11.2024. Learned counsel for the petitioner submits that in Paragraph No. 2 of the order the words "However, having regard to the fact that the suit between the parties is pending since 1976" be replaced with "However, having regard to the fact that the execution proceedings arising from the suit proceedings of 1976 are still pending". Secondly it is his further submission that the word "fortified" in Paragraph No. 5 of the order be replaced with "forfeited".
3. The error being inadvertent. The same be corrected and corrected order be uploaded.
4. Motion stand disposed of.

(R. M. JOSHI, J.)

bsj

(This order is modified and uploaded vide speaking to the minutes order dated 26.11.2024.)

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

983 WRIT PETITION NO. 3475 OF 2024

Ashokkumar Bandrinarayan Bharadiya

....Petitioner

VERSUS

Janabai Dattu Mahske Aias Janabai B Ankush
& others

.....Respondents

.....

Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. Nimish More and Mr. Devang Deshmukh, Advocate for Respondent Nos. 1 to 5.

CORAM : R. M. JOSHI, J.

DATE : 21st NOVEMBER, 2024.

PER COURT :

1. None for the Petitioner.
2. This Court would have been justified in dismissing the Petition for absence of Petitioner. **However, having regard to the fact that the execution proceedings arising from the suit proceedings of 1976 are still pending,** this Court finds it appropriate to go through the proceeding and pass appropriate order. Learned Senior Counsel for the Respondents has ably assisted this Court to go through the record and arrive at proper conclusion.

3. Perusal of the record indicates that the dispute between the parties before the Court has commenced in the year 1976. Petitioner claims himself to be the purchaser of the property and obstructionist in the execution proceeding. He filed application Exhibit 93 seeking permission to examine 2 witnesses. This application was opposed by Respondent. Learned Trial Court, by passing impugned order, rejected the application.

4. Learned Senior Counsel for the Respondents submits that there is no merit in the Petition as the application filed at the far end of the execution proceeding in any case ought to have been rejected by the Court.

5. Record indicates that evidence was over and the matter was at the stage of arguments. Without going into the merit of the case, suffice it to say that directing the present Petitioner to examine these two witnesses in time bound manner will meet the ends of justice. Hence, in the interest of justice, Petition is allowed. Consequently, Application Exhibit 33 is allowed. Parties are directed to appear before the Execution Court on 03.12.2024. It is clarified that the Execution Court to permit the Petitioner to examine these two witnesses on or before 20.12.2024. If any adjournment is sought by the Petitioner on any ground, it should be presumed that the Petitioner is not interested in examining those witnesses. Right of the Petitioner to examine those witnesses shall stand

forfeited after 20.12.2024. All contentions of the parties are kept open to be agitated before the Trial Court. The Execution Court to decide the proceeding in accordance with law. Needless to say that the proceeding before the Executing Court shall come to an end in accordance with law on or before 31.03.2025.

(R. M. JOSHI)
Judge

dyb