



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

916 WRIT PETITION NO. 8771 OF 2022

Deogiri Sahakari Sakhar Karkhana Ltd. Through Its Liquidator
Shriram Eknath Sonne

VERSUS

Loknete Marutrao Ghule Patil Dnyaneshwar Sahakari Sakhar
Karkhana Ltd. Through Managing Director

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Advocate for the Petitioner : Mr. Suryawanshi Kamlakar J.

Advocate for Respondent : Mr. Deshmukh Himmatsinh D.

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WITH WRIT PETITION NO. 12343 OF 2022

WITH WRIT PETITION NO. 12313 OF 2022

WITH WRIT PETITION NO. 12346 OF 2022

WITH WRIT PETITION NO. 12322 OF 2022

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CORAM : R. M. JOSHI, J.

Dated : July 10, 2024

PER COURT :-

1. Heard.
2. These petitions are filed by liquidator of Deogiri Sahakari Sakhar Karkhana Ltd. (Judgment Debtor) raising objection with regard to the maintainability of the execution proceedings on the ground that the proceedings are being taken cognizance by the Execution Court without compliance of provisions of Section 38 of the Code of Civil Procedure.
3. Learned Counsel for petitioner submits that the Trial Court has erroneously rejected the application by holding that the execution proceedings is pending for 12 years. It is his submission that the liquidator was added as party to the execution proceedings only after

order was passed by this Court in Writ Petition No.1371/2020 and other petitions on 30/09/2021. It is his further submission that immediately after receipt of the notice, present objection is raised.

4. Learned Counsel for the respondent / Decree Holder has drawn attention of the Court to the order passed by the Court of Civil Judge, Senior Division at Shrirampur on application filed by Decree Holder for transfer of the execution proceedings to Aurangabad.

5. Perusal of these orders show that the execution proceedings bearing Special Darkhast No.80/2006, No.45/2011, No.54/2010, No.46/2010 and No.55/2010 were filed before the Court which has passed decree and on applications Exhibit 86, 43, 57, 40 and 61 filed by Decree Holder, after due compliance of Section 38 and 39 of Code of Civil Procedure, the same were transferred to Aurangabad where at present they are pending. Having regard to these facts and compliance of the requisite conditions contemplated by Section 39 of the Code of Civil Procedure, this Court finds no reason to cause interference in the impugned order.

6. In view of the above deliberations all petitions stand dismissed.

(R. M. JOSHI, J.)

vj gawade/-.