

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11768 OF 2013

SHABNOOR
AYUB
PATHAN

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Date: 2024.11.28
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Ajay Bhaskar Dhuri & Anr.

... Petitioners

V/s.

Kundalik Kisan Jadhav

... Respondent

Mr. P. D. Dalvi for the petitioners.

Mr. Sandeep Koregave for respondent.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 28, 2024

P.C.:

1. The petitioners (judgment-debtors) are challenging an order passed by the Executing Court rejecting an objection under Section 47 of the Code of Civil Procedure, 1908. The objection raised by the judgment-debtors is in relation to the court fees to be paid by the decree holder. Moreover, another objection in relation to area of suit property is also raised. Both the objections need not be entertained by the Executing Court.

2. Considering the limited scope of the Executing Court under Section 47 of CPC, taking into consideration the law laid down by the Apex Court in the case of *Dhurandhar Prasad Singh Versus Jai Prakash University And Ors.*, 2001 (6) SCC 534, wherein the Apex Court has held the power of Executing Court while entertaining application under Section 47 is microscopic and limited to the

extent of raising issues such as the decree became inexecutable, the decree is void or had been passed by the Court which lack inherent jurisdiction to entertain the suit. Considering the scope of judicial review, there is no merit in the writ petition, the petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)