

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.18398 OF 2024

Sanjeev Preetam Chhugani	]	
Age -56 years, Occu. - Business	]	
R/o. C/o. 20-22 Wenlock Rd. Landon,	]	
N1 7GU, UK	]	
also at :	]	
Mr. Madhav K.	]	
Kirloskar, Plot No.455, Sindh	]	
Cooperative Housing Society Limited,	]	
Ganesh khind Road,	]	
Aund Pune-411 007.	]	... Petitioner

Versus

1.	Yasmin Shafi Shaikh	]	
	Age – 56 years, Occu. : Housewife	]	
		]	
2.	Muzdmmil Shafi Shaikh	]	
	Age – 30 years, Occu. : Business	]	
	Both R/o. 293, Sindh Co-operative	]	
	Housing Society, Sadhu Vaswani Nagar,	]	
	Aund, Pune-411 007.	]	
		]	
3.	Sheetal Kishanchand Tejawani	]	
	Age : 42 years, Occu. : Business	]	
	R/o. 305, 3 rd floor, Tulsiani Chambers,	]	
	Nariman Point, Mumbai-400021	]	... Respondents

Mr. Vishal Kanade a/w. Mr. Sujit Lahoti and Mr. Haaris Koradia :-	Advocates for Petitioner.
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CORAM : S. M. MODAK, J.

DATE : 17th DECEMBER 2024

ORAL ORDER:-

1. The matter is fixed before the executing Court for taking decision on the applications filed by the petitioner/ decree holder praying for urgent adjudication of the applications below Exhibits No.32 and 37. The copy of application filed in November 2024 is on page No.82. I have read those applications. The only prayer made in this Writ Petition is for issuance of direction to the executing Court to have urgent adjudication (page No.20).

2. In view of limited issue involved I have taken this petition on board. The respondents are served by way of private notice. The petitioner undertakes to file affidavit of service within a course of day. Compilation of documents taken on record.

3. On this background learned Advocate Mr.Kanade has invited my attention to following applications :-

- (i) The application below Exhibit No.32 praying for removal of the obstacles that may come at the time of execution of possession warrant (page No.8).

- (ii) The application filed by obstructionist Ms. Sheetal Tejwani under the provisions of Order 21 Rule 97 of the CPC (page No.33).

4. When an application is filed under these provisions either by the decree holder or by an obstructionist, the executing Court is bound to decide that objection. Always there is a controversy how this objection has be decided. **That is to say on the basis of pleadings and documents or after recording of evidence.** As the limited relief is sought, this Court is not expected to decide how the parties and the executing Court is going to decide the said objection and take decision on the obstruction raised by the obstructionist.

5. The decree is passed on 16th March 2020 in Special Civil Suit No.2134 of 2008. There is submission that it has attained finality. By giving directions this petition can be disposed of. Hence the following order is passed :

ORDER

- (i) The Court of City Civil Judge Senior Division, Pune is directed to decide an application for early adjudication of applications at Exhibits No.32 and 37.

- (ii) The executing Court to decide said applications as early as possible preferably within a period of two weeks from placing copy of the order before him.
- (iii) All the parties are at liberty to address Court on the aspect of mode of adjudication of Exhibits No.32 and 37.
- (iv) The executing Court is directed to fix time schedule for taking decision on Exhibits No.32 and 37.

6. With the above observations, Writ Petition is disposed of.

[S. M. MODAK, J.]

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VISHNU
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