



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.2744 of 2023

PRIYANKA W/O JANARDAN PATEL (MAIDEN NAME PRIYANKA D/O SUNIL
CHOKHARE VS JANARDAN S/O JITENDRA PATEL

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms (Dr.) R.S. Sirpurkar, Advocate for the Petitioner/s

CORAM : ANIL S. KILOR, J.

DATED : 04.01.2024

1. Heard.
2. The common order below Exh.1 dated 09.12.2022 passed by the Family Court No.2, Nagpur, disposing the recovery proceedings Petition No.RD-181 of 2016, Petition No.RD-136 of 2017, Petition No.RD-111 of 2018, Petition No.RD-110 of 2018, Petition No.RD-116 of 2019 and Petition No.RD-96 of 2021, is under challenge in this writ petition.
3. The only ground raised in this petition is that, the order impugned was passed without hearing the petitioner and without giving an opportunity to point out that there are other legal options/remedies available for recovery of amount instead of closing down the execution proceedings by observing that, the decree holder is at liberty to file fresh proceeding in any of the cities where the employer of the judgment debtor is situated or where the judgment debtor owns movable or immovable properties.
4. In the circumstances, the petitioner undertakes to appear before the Family Court No.2, Nagpur to assist the Court to arrive at a right conclusion, if the matter is remanded back.

5. Considering the nature of the dispute and the fact that the proceedings have been closed down by the learned Family Court No.2, Nagpur for the reasons stated in the order, I am of the opinion that no prejudice would be caused to the other side if an opportunity is granted to the petitioner to appear before the Family Court No.2, Nagpur and to point out the legal options/remedies available for executing the decree without closing down the proceedings. In that view of the matter, I pass the following order :

(i) The writ petition is **partly allowed**.

(ii) The matter is remanded back to the learned Family Court No.2, Nagpur to pass the order afresh, after hearing the petitioner, within two months from the date of appearance of the petitioner.

6. The petitioner undertakes to appear before the learned Family Court No.2, Nagpur on **16.01.2024 at 11.00 a.m.**

7. At this stage, it is informed that the application Exh.13, filed on 03.09.2022, is pending and it was not decided by the learned Family Court No.2, Nagpur.

8. In that view of the matter, the learned Family Court No.2, Nagpur is directed to decide the application Exh.13, after hearing the petitioner.

[ANIL S. KILOR, J.]