



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

WRIT PETITION NO. 11906 OF 2023

Fulabai Dnyanoba Bachate

.. Petitioner

Versus

Asha Kashirao Deshmukh
@ Kalyankar And Others

.. Respondents

Mr. D. S. Bagul, Advocate for the Petitioner.

Mr. V. D. Sapkal, Senior Advocate i/by Mr. Indrajeet Thorat a/w Mr. Yash A. Jadhav, Advocate for Respondent Nos. 1 & 3 to 5.

Mr. P. D. Bhosale, Advocate for Respondent No. 2.

Mr. T. S. Lodhe, Advocate for Respondent Nos. 7 to 10, 12.

Mr. S. V. Mundhe, Advocate for Respondent Nos. 15, 16, 17, 23 to 25, 27 to 30, 35.

Mr. P. R. Katneshwar, Advocate i/by Mr. Yogesh B. Bolkar, Advocate for Respondent Nos. 41, 54, 55 & 58.

Mr. Dhiraj R. Jethliya, Advocate for Respondent Nos. 63 to 67.

**WITH
CIVIL APPLICATION NO. 1848 OF 2024
IN CA/14487/2023**

**WITH
CIVIL APPLICATION NO. 14487 OF 2023
IN WP/11906/2023**

CORAM : KISHORE C. SANT, J.

DATED : 20th MARCH, 2025.

P. C. :-

. Heard the parties for some time.

2. The order under challenge is only an order of issuance of notice

to proposed respondent Nos. 52 to 62 in execution proceeding passed on application Exh. 59, 70 and 73. The Civil Misc. Application No. 285/2021 filed for restoration of the execution proceeding that came to be dismissed in default on 26.11.1997.

3. It is vehemently submitted by the learned senior advocate Mr. Sapkal for respondent Nos. 1 and 3 to 5 that, this order cannot be said to be an order amenable to the writ jurisdiction. No rights are adjudicated and no any effective order is passed. He thus prays for rejection of the petition.

4. The learned advocate for the petitioner Mr. Bagul, however, vehemently submits that, the Court has even to record the pursis that was filed before the Court saying that there is no proceeding pending before the Executing Court.

5. Be that as it may, this Court finds substance in the submissions. On going through the petition this Court finds that, there is no order as such under challenge in this writ petition. So far as recording of the pursis is concerned, it is submitted that, the Court has to take on record the pursis and to pass necessary order as the pursis is merely an intimation of a fact to the Court. However, this Court finds that, the pursis can be filed only in the proceeding which can be said to be

pending before the Court. In the present case, the dismissal of execution proceeding in default is yet to be set aside and the same is yet to be restored to its original position.

6. Thus, considering all above, this Court finds it proper to dispose of the writ petition by directing the learned Executing Court i.e. learned Civil Judge Senior Division, Gangakhed to dispose of the applications and the Civil Misc. Application No. 285/2021 by the end of June 2025.

7. Till then, the parties to maintain the position as on today.

8. It is open for the petitioner to withdraw whatever proceedings he wants to withdraw.

9. With this, the writ petition stands disposed of.

10. In view of disposal of the writ petition, all pending civil applications also stand disposed of.

(KISHORE C. SANT, J.)

PS.B.