

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 4782 OF 2023

RAMNATH NARAYAN DEVADHE AND OTHERS
VERSUS
GANPAT KONDIBA KHEDKAR AND OTHERS

...
Advocate for the Petitioners : Mr. Bide Dnyaneshwar A.
Advocate for Respondent Nos. 1A to 1C : Ms. Charuta S. Deshmukh
...

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 05.12.2025

PER COURT :

1. Heard Mr. Bide, learned Counsel for the petitioners and Ms. Deshmukh, learned Counsel for respondent Nos. 1A to 1C.
2. The petitioners assail the common order dated 10.03.2023 passed below Exhibit Nos. 106 and 110 by the learned Executing Court in R.D. No. 01 of 2012, whereby, the application filed by the Decree Holder for removal of two tin sheds and two houses came to be allowed.
3. Mr. Bide, Learned Counsel for the petitioners submits that the Executing Court was not supposed to allow the application on the ground that initially the suit was decreed in the year 2005 and subsequently it was assailed by filing Regular Civil Appeal and the matter went up to this Court.
4. By order in the Second Appeal the matter was remanded back and in second round of litigation the suit was decreed in the year

2014 wherein following order was passed :

ORDER

“2. The defendants, their agents, servants or anybody on their behalf are hereby perpetually restrained from interfering into the possession of the plaintiff described in paragraph No.1B of plaint. ”

5. He further submits that the above referred decree was passed on 14.08.2014. When the earlier order was passed in the year 2008, the executing Court was not supposed to proceed further in the same executing proceeding. He further brought my attention to page No. 91 of this petition pointing out the judgment in R.C.S. No. 191 of 2001, wherein the respondent No. 1 is shown as dead but in reality she filed the appeal and the same was pending.

6. He further contended that the application filed by the respondent for seeking police aid ought not to have been allowed by the learned Executing Court and the orders passed by the Executing Court are liable to be set aside.

7. Per Contra, learned Counsel Ms. Deshmukh, submits that the learned Executing Court has rightly passed the order.

8. I have heard the learned Counsel for the parties and I have gone through the common order passed below Exhibit Nos. 106 and 110. The execution proceeding is filed in 2008 and in pursuance to the remand order, trial Court passed the order referred above in paragraph No. 4 of the this order and the execution was carried out.

9. Therefore, I do not find any perversity in the common order.

As far as the police protection is concerned if there is obstruction at the hands of the petitioner, then the Executing Court is having inherent power under Section 151 of the Code of Civil Procedure to pass appropriate order to have it executed.

10. Therefore, I do not find any reason to interfere in the common order dated 10.03.2023 passed below Exhibit Nos. 106 and 110 by the learned Executing Court in R.D. No. 01 of 2012 passed by the Executing Court under Article 227 of the Constitution of India.

11. In view thereof, the petition sans merit and the same is dismissed. No order as to the costs.

(SIDDHESHWAR S. THOMBRE, J.)

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