



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8634 OF 2025**

Pratap Ajinath Kanade ... Petitioner
versus
Savitha Devidas Talekar and Anr. ... Respondents

Mr. Sujeet Bugade, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 2 JULY 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The Petitioner assails an order dated dated 27 October 2015 passed by the MACT, Barshi, on an application raising objection to the attachment of the land bearing Gat No.54/1 in execution of the award passed by MACP No.172 of 2014, whereby the said Application came to be rejected.
3. Respondent No.1 had filed a claim for compensation on account of death of her husband in a motor vehicle accident. By a judgment and award dated 27 October 2015, the said claim petition was allowed and the Respondent No.2, father of the Petitioner, was ordered to pay compensation of Rs.4,31,190/- along with interest @ 7% p.a. from the date of the application till realization.
4. An application preferred by Respondent No.2 for condonation of delay in filing the First Appeal assailing the said judgment and award came to be

rejected by this Court, by an order dated 26 March 2019. The award, thus, attained finality.

5. As the Respondent No.2 did not satisfy the award, the Respondent No.1 filed Execution Petition. In the said Execution Petition, Respondent No.1 – decree holder filed an application for attachment of the immovable properties of the Respondent No.2 – judgment debtor. By an order dated 19 October 2024, the Tribunal was persuaded to partly allow the application and attach the land admeasuring 69 Are out of Gat No.54/1 situated at Pathurdi, Tal Karmala, Solapur. The judgment debtor and the Petitioner, in whose name the said Gat No.54/1 was mutated subsequent to the award, were restrained from transferring the said attached land or creating any encumbrance thereon.

6. The Petitioner filed an application (Exh.71) raising objection to the attachment. It was, inter alia, contended that the award was obtained by practicing fraud and the land which was attached pursuant to the order dated 19 October 2024, was not standing in the name of the judgment debtor, and, therefore, attachment was infirm.

7. The Tribunal rejected the objection observing, inter alia, that the record revealed that after the award passed by the Tribunal, the judgment debtor had transferred the land bearing Gat No.54/1 in the name of the Petitioner, his son, and land bearing No.251/3 in the name of the wife of the judgment

debtor, with intent to defeat the award.

8. Being aggrieved, the Petitioner has invoked the writ jurisdiction.

9. Mr. Bugade, learned Counsel for the Petitioner, would urge that the objection raised by the Petitioner under Order XXI Rule 58 of the Code of Civil Procedure, 1908, was required to be determined as a suit. The question whether the land which stands in the name of the Petitioner could have been lawfully attached in execution of the award passed against the Judgment Debtor was required to be adjudicated. Without trying the said issue, the Tribunal rejected the objection by ascribing unjustifiable reasons. To lend support to this submission, Mr. Bugade placed reliance on the judgment of the Supreme Court in the case of Maya Devi V/s. Lalta Prasad¹.

10. I have perused the material on record. Keeping aside the question of tenability of the Writ Petition against the impugned order, since the matter pertains to execution of an award passed in favour of a widow in Claim Petition, decided on 27 October 2015, I am inclined to delve into the merits of the matter.

11. The substance of the objection of the Petitioner was that the attached property belongs to the Petitioner, and his father – judgment debtor had no right, title and interest therein. The facts which have emerged are hard and wholly justify the finding of the Tribunal that the attached property came to be

1 (2015) 5 SCC 588

transferred in the name of the Petitioner to defeat the award.

12. As noted above, the award came to be passed on 27 October 2015. Judgment Debtor filed an application for condonation of delay of 3 years, one month and 3 days in filing the First Appeal to assai the said award. This Court rejected the said application as the Judgment Debtor could not satisfactorily account for the delay. In satisfaction of the said award, judgment debtor has deposited till date a sum of Rs.60,000/- only. As of the date of the attachment order, a sum of Rs.6,61,580/- and further interest on the outstanding principal amount of the award was due and payable thereunder.

13. The manner which the Petitioner claimed to have acquired absolute ownership over the attached land, makes the position abundantly clear. After the passing of the award, the Petitioner and his mother instituted a suit being RCS No.10 of 2018 purportedly for the partition and separate possession of the agricultural lands, asserting that though lands, including the attached land, stood in the name of the judgment debtor, yet the latter was not absolute owner thereof and the Petitioner and his mother were entitled to a share therein. The Suit was instituted on 8 January 2018. On 10 February 2018, the suit was compromised before the National Lok Adalat. The Compromise Pursis, in terms of which the suit came to be decreed, reveals that one property was allotted to the Petitioner and rest two to the mother of the Petitioner. Respondent No.1 – judgment debtor relinquished all his interest in

all the three properties. The compromise betrayed a clear intent to defeat the award by completely divesting Respondent No.2 – judgment debtor of all the properties.

14. In this view of the matter, the Tribunal was well within its rights in observing that the transfer of attached land in favour of the Petitioner was with intent to defeat the award.

15. The Court also finds that the Tribunal took care to attach only 69 Are of land out of Gat No.51/4 which admeasures 1 H 86 R, as the said portion of land would satisfy the award, in the event of sale.

16. Thus, looking from any perspective, the impugned order does not warrant any interference, especially viewed in the context of the fact that the widow is struggling for over 10 years to get the compensation for the death of her husband in a vehicular accident.

17. The Writ Petition, thus, stands dismissed.

(N.J.JAMADAR, J.)