

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15967 OF 2023

VISHAL
SUBHASH
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Date: 2025.01.23
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Abbas Aziz Desai
(since deceased through LR's)

...Petitioner

vs.

Surjaan Abbas Desai and Ors.

...Respondents

Mr. Suresh Kamble, for the Petitioner.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 21, 2025

P.C:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 20th May, 2023 passed by the learned Civil Judge Junior Division, Pethvadgaon. By the said order, the learned Civil Judge directed the petitioner / opponent No. 1(b) to handover the peaceful and vacant possession of the property, bearing village panchayat property No. 937, to the applicants within 30 days from the date of the said order.
3. Regular Darkhast No. 3 of 2013 was filed to execute a compromise decree passed in RCS No. 101 of 1993. In terms thereof, the petitioners/ defendants were to retain the possession of the property bearing village panchayat property No. 937 till they obtained the possession of another property, bearing village panchayat property No. 938, from the tenants or the sale of the said

property.

4. The learned counsel for the petitioner submitted that the contingencies envisaged by clause (e) of the Consent Terms dated 10th July, 2004, on the basis of which the compromise decree came to be passed, had not arisen. Yet, the executing Court directed the petitioner /opponent No. 1 (b) to handover the possession of village panchayat property No. 937.

5. Perused the impugned order.

6. The learned Civil Judge has referred to the proceedings pursuant to which the possession of the two rooms in the property, bearing village panchayat property No. 938, was handed over to the opponent No. 1(b). The executing Court had further recorded that the said fact was admitted by the opponents in their reply.

7. In any event, it appears that the condition, subject to which the possession of village panchayat property No. 937, was to be delivered to the respondent, has been substantially complied with. The Court thus does not find any error in the impugned order.

8. The petition stands dismissed.

(N. J. JAMADAR, J.)