

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7615 OF 2024

BHALCHANDRA
GOPAL
DUSANE

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BHALCHANDRA
GOPAL DUSANE
Date: 2025.03.06
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The Poona City General Library alias
Pune Nagar Wachan Mandir through
Suvarna Jayan Jogalekar, Secretary
of Petitioner No.1- Trust

...Petitioner

Versus

The Pune (Poona) District Industrial
Co-operative Association Ltd.

...Respondent

Mr. Prakash Mahadik, Advocate for Petitioner.

Mr. Chaitanya B. Nikte a/w Prajit S. Sahane, Ritvij A. Kale and
Swapnil S. Sangle for Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.
DATED : 4th March 2025

P.C.:

1. Heard Mr. Prakash Mahadik, learned Counsel for the
Petitioner and Mr. Chaitanya Nikte, learned Counsel for the
Respondent No.1.

2. In the present Writ Petition, the challenge is to the Order
dated 27th October 2023 passed by the learned 3rd Additional Judge
and CJSD, Small Causes Court, Pune below Exhibit 15 in Darkhast
No. 72 of 2022.

3. The prayer sought in Exhibit 15 application is to issue possession warrant. The said Application has been rejected by the learned Executing Court on the ground that the Appeal is pending before the learned Appellate Court. However, admitted position is that there is no stay granted in the Appeal challenging the eviction decree. If there is no stay granted, there is no impediment in issuing the possession warrant. However, as the said Appeal is pending, the Respondent in the present Writ Petition i.e. the Judgment debtor, who has filed Appeal No.313 of 2018 in the learned District Court, Pune is granted six weeks time to seek stay in the said Appeal. If the Respondent fails to obtain any stay of the eviction decree, the learned Executing Court shall issue possession warrant.

4. Accordingly, the Writ Petition is disposed of by setting aside impugned Order dated 27th October 2023 passed by the learned 3rd Additional Judge and CJSD, Small Causes Court, Pune below Exhibit 15 in Darkhast No. 72 of 2022 by allowing said Exhibit 15 application, subject to above.

(MADHAV J. JAMDAR, J.)