

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5789 OF 2025

Sharfuddin Mohammad Kaskar ... Petitioner

V/s.

Keren Menashe Chaulkar and Ors. ... Respondents

Mr. Rohit Joshi, for the petitioner.

CORAM : N.J. JAMADAR, J.

DATE : 6th MAY 2025.

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1. Heard learned counsel for the petitioner.
2. The petitioner has preferred an application under Section 47 of the Code of Civil Procedure, 1908 for a declaration that the decree passed in RCS No. 6 of 2011 does not pertain to the open land on the western side of Municipal House premises bearing No. 373 and the said decree has been rendered unexecutable.
3. By an order dated 10th October 2016, the Executing Court directed the petitioner to satisfy the Court on the aspect of maintainability of the application.
4. The parties have, thereafter, led the evidence.
5. When the said application No. 13 of 2016 was listed before the Court on 17th January 2025, the Executing Court has again passed an order to satisfy the Court as to how an application under Section 47 of

the Code is maintainable.

6. Since the Executing Court is already seized with application i.e. Civil Miscellaneous Application No. 13 of 2016, in which an order to satisfy the Court about the maintainability of the application has been passed, it would be expedient in the interest of justice that the said application i.e. Civil Miscellaneous Application No. 13 of 2016 itself is decided by the Executing Court on the basis of available material, including the evidence adduced by the parties.

6. The Executing Court is, therefore, directed to decide the Civil Miscellaneous Application No. 13 of 2016, including the point of maintainability of the said application, on the basis of the available material and the evidence adduced by the parties.

7. Petition disposed.

(N.J. JAMADAR, J)