

Vaibhav

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.47 OF 2025

WITH

INTERIM APPLICATION NO.1262 OF 2025

IN

CIVIL REVISION APPLICATION NO.47 OF 2025

Sangeeta Vinod Singh @

Sangeeta Trilochan Patel @Singh

...Applicant

Versus

Hemant Bhikhubhai Dalal And Ors.

...Respondents

Ms. Rama Subramanyam i/b Sarika C. Tripathi, for the Applicant.

Mr. R.R. Tiwari, for the Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.

DATED: 29 JANUARY 2025

P.C.:

1. Heard Ms. Rama Subramanyam, learned Counsel appearing for the Applicant.

2. The challenge in the present Civil Revision Application is to the Order dated 3rd October 2024 passed by the learned Judge of the Small Causes Court at Mumbai below Exhibit - 38 in Execution Application No.89 of 2021 in R.A.E. & R. Suit No.372/894 of 2002 (“**impugned Order**”).

3. By the impugned Order, the learned Judge of Small Causes Court has rejected the Application for stay filed in Execution Application No.89 of 2021 till the disposal of the obstructionist Application by

observing that as the Applicant is the daughter of Defendant No.1 and the sister of other Defendants, she is having no independent right, title and interest in the suit premises.

4. The perusal of the record shows that on 13th November 2002, R.A.E & R Suit No.372/894 of 2002 has been filed against the Defendant No.1 (mother of the present Applicant i.e. obstructionist) and other Defendants i.e. brothers and sisters of the Applicant. The said suit has been decreed on 15th April 2016. The said decree has been challenged in the Appeal filed by the original Defendants and the said Appeal has been dismissed in the year 2021. In the execution of the said decree the Applicant i.e. daughter of the original Defendant No.1 has filed the obstructionist proceedings.

5. It is also an admitted position that the present Applicant got married in the year 2000 and started residing with her husband. Thus, the learned Executing Court has rightly rejected the stay Application by observing that no independent right, title and interest has been shown by the Applicant.

6. Learned Counsel appearing for the Applicant has relied on the decision of the Supreme Court in *Shreenath v. Rajesh*¹ and more particularly on Paragraph No.10 of the same. The relevant portion of Paragraph No.10 on which the learned Counsel appearing for the Applicant has relied, reads as under :-

¹ AIR1998 SCC 1827

“We find the expression “any person” under sub-clause (1) is used deliberately for widening the scope of power so that the Executing Court could adjudicate the claim made in any such application under Order 21, Rule 97. Thus by the use of the words ‘any person’ it includes all persons resisting the delivery of possession, claiming right in the property even those not bound by the decree, includes tenants or other persons claiming right on their own including a stranger.”

7. Thus, even in the said decision of ***Shreenath*** (supra), the Supreme Court has observed that any person can raise the obstruction to the delivery of possession claiming right in the property. The decree can be obstructed by those who are not bound by the decree and the same includes tenants or other persons claiming right on their own including a stranger. Thus, what is relevant is that independent right has to be claimed. This is a case where the Applicant is admittedly daughter of the original Defendant No.1. The Suit has been filed in the year 2002 and the Applicant has started staying in her matrimonial house after marriage in the year 2000. Thus, the Applicant is not staying in the suit premises.

8. Perusal of the record shows that the proceedings filed by the present Applicant being obstructionist proceedings are collusive in nature and in fact, it is clear that the defendants i.e. mother, brothers, and sisters of the present Applicant have put up the present Applicant as obstructionist.

9. Thus, no interference under the revisional jurisdiction of this Court is warranted.

10. Accordingly the Revision Application is dismissed, however, with no order as to costs.

11. As the Revision Application is dismissed, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]