

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.3983 of 2025
IN
WRIT PETITION NO.374 OF 2025**

Yashwant Rajaram Jamdade & ors. ...Applicants

In the matter between

Yashwant Rajaram Jamdade & ors. ...Petitioners

Versus

Dnyaneshwar Shankar Gite & ors. ...Respondents

Mr.Vaibhav Gaikwad:-	Advocate for the Applicants
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CORAM : S.M. MODAK, J

**DATE : 18th March 2025.
(IN CHAMBER)**

P.C. :

Heard learned Advocate Shri Gaikwad for the Applicants/Obstructionist. Read the order dated 16th December 2024. By way of this application modification of the said order is sought. Direction No.(ii) and (iii) of the operative order reads thus:-

- (ii) Liberty is granted to the Petitioners to take appropriate steps for challenging the findings and the order dated 11th August 2022.
- (iii) Liberty is also granted to the Petitioners to challenge the orders passed by the Executing Court subsequent to the order dated 11th August 2022 in that proceeding.

2. It is submitted that as per Direction No.(ii) and (iii), the Petitioner has already filed a substantive appeal thereby challenging the order dated 11th August 2022. Necessary delay condonation application is also filed. Now the Petitioners have filed a fresh writ petition and they claim that it is filed as per the liberty granted as per the Direction No.(ii). This application is filed on the basis of oral directions given by learned Single Judge (Coram: N.J. Jamadar, J) in order to seek clarification of the Direction No. (ii). Now the issue is whether clarification can be made.

3. It is true that objections were rejected on 11th August 2022 and thereafter subsequent orders were passed by the Executing Court. Earlier they were challenged. However, the writ petition was disposed of by granting liberty. At that time, order dated 11th August 2022 was not challenged and now it is challenged. Contention is in that appeal subsequent orders cannot be challenged but now they are challenged. In such a situation it is for the Petitioners to satisfy the Court seized of the CPC writ assignment “*which is the proper remedy to challenge those subsequent orders and in fact it is the writ petition which is the proper remedy*”. The reason is this Court is not seized of writ assignment. It is for the Court having that assignment to decide the issue. That is how prayer for modification is disposed of. Interim Application stands disposed of accordingly.

(S.M. MODAK, J.)