



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4262 OF 2024

Ramchandra S/o. Shankarrao Thombre,
Age : 63 Years, Occu. : Retired,
R/o. Plot No.8-A, Bokde Layout,
Ayodha Nagar, Nagpur.

.... Petitioner

VERSUS

1. Saraswati Mata Vidya Prasarak Mandal,
Thanegaon, Tq. Karanja, Dist. Wardha
Through Its Vice President
Shri. Tukaram Fakirchand Dongre,
R/o. Rainbow Dream Apartment,
Flat No.101, Natraj Society,
Gorewada, Nagpur.
2. Saraswati Mata Vidya Prasarak Mandal,
Thanegaon, Tq. Karanja (Ghodge), Dist. Wardha
Through Its Joint Secretary
Smt. Lata P. Dhondse,
R/o. At post Thanegaon,
Tq. Karanja (Ghodge), Dist. Wardha.
3. Bhagwant S/o. Bapurao Kadve,
Age : 74 Years, Occu. : Retired,
R/o. At post Thanegaon,
Tq. Karanja, Dist. Wardha.
4. The Education Officer (Secondary),
Zilla Parishad, Wardha,
Dist. Wardha.

.... Respondents

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Advocate for Petitioner : Mr. N.B. Kalwaghe
Advocate for Respondent Nos.1 & 2 : Mr. K.S. Ganorkar
Advocate for Respondent No.3 : Mr. C.B. Dharmadhikari
AGP for Respondent No.4-State : Ms. M.S. Naik
....

CORAM : PRAFULLA S. KHUBALKAR, J.

Dated : 24th SEPTEMBER 2025

JUDGMENT :

1. Heard.
2. **Rule.** Rule is made returnable forthwith and by consent of learned Advocates appearing for the parties, the petition is taken up for final disposal.
3. The petitioner's challenge is to the order dated 27.10.2023, passed by learned 5th Joint Civil Judge Senior Division, Wardha, at Exhibit 30, in Special Darkhast No.05 of 2017, thereby rejecting the application filed by the petitioner/decreed holder for proceeding with the execution proceeding by issuing attachment warrant with respect to the immovable property of respondent No.3/judgment debtor No.3.
4. The petitioner's basic contention is that the impugned order is passed without considering the earlier order dated

03.10.2019, passed in the same execution proceedings by which attachment warrant was issued with respect to the immovable property of respondent No.3/judgment debtor No.3 and order dated 05.08.2022, passed below Exhibit 29, permitting the petitioner/decreed holder to take necessary steps. It is submitted that the impugned order is passed without considering the earlier order passed by this Court on 20.08.2019 in Writ Petition No.5837 of 2019, granting liberty to respondent No.1 therein (petitioner herein) to proceed for recovery of back wages from respondent No.2 therein (respondent No.3 herein).

5. Learned Advocate for the petitioner/decreed holder submits that the impugned order is passed without considering the above mentioned orders and needs to be reconsidered.

6. Learned Advocate for respondent No.3/Judgment Debtor No.3 submits that respondent No.3 has also filed a separate application at Exhibit 35, under Section 47, Order XXI Rule 58 read with Section 151 of Code of Civil Procedure, in the same execution proceeding, seeking a decision on question of liability or personal liability of respondent No.3 with respect to the satisfaction of the decretal amount. It is stated that the said application is pending as on today. Further, it is also pointed out that respondent No.3 has filed

a separate application dated 08.08.2025, for attachment of property of the respondents Trust, which is also pending.

7. As regards the impugned order passed by the executing court, rejecting the application at Exhibit 30, it is pertinent to note that the earlier orders passed by the executing court, particularly order of issuance of attachment of warrant against the immovable property of respondent No.3/judgment debtor No.3 and the order passed by this Court ought to have been given due consideration. The execution proceedings are with respect to the execution of the order passed by the School Tribunal, Chandrapur, granting back wages to the petitioner/decreed holder. It was, therefore, necessary that the application for issuance of attachment warrant against respondent No.3 should have been decided after considering those orders that have bearing on the subject matter. Therefore, it is necessary to remand the matter to the executing court for reconsidering the application at Exhibit 30. Since the controversy raised by respondent No.3 about taking steps with respect to the property of the respondents Trust, and since respondent No.3 has purportedly acted in his official capacity, it is also necessary that the pending applications submitted by respondent No.3, referred above, also need to be considered.

8. It is also to be noted that the respondents have filed separate writ petitions i.e. Writ Petition No.374 of 2017 and Writ Petition No.5837 of 2019, challenging the judgment and order passed by the School Tribunal, Chandrapur and same are pending for consideration before this Court. The respondents are entitled to take steps for early decision of those writ petitions.

9. Having regard to the above mentioned circumstances, following order is passed.

ORDER

- I) The order dated 27.10.2023, passed by learned 5th Joint Civil Judge Senior Division, Wardha, at Exhibit 30, in Special Darkhast No.05 of 2017, is quashed and set aside.
- II) The executing court is directed to decide the application dated 26.02.2021, at Exhibit 30, filed by the petitioner/decreed holder, in Special Darkhast No.05 of 2017, afresh after giving the opportunity of hearing to both the parties.
- III) The executing court is also directed to decide the pending applications dated 14.10.2022 at Exhibit 35 and dated 08.08.2025 at Exhibit 38, filed by respondent No.3/judgment No.3, in Special Darkhast No.05 of 2017, at the earliest.

- IV) In view of the above, the Writ Petition stands disposed of.
- V) Rule is made absolute in aforesaid terms.

[PRAFULLA S. KHUBALKAR]
JUDGE

asd