



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

WRIT PETITION NO.5616 OF 2019

[Nazimuddin Quazi Moinuddin Quazi and Other **..Vs..** The
Divisional Commissioner, Amravati and Others]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr P. A. Gode, Advocate for Petitioners.

Mr A. A. Madiwale, AGP for Respondents/State.

Mr A. M. Ghare, Advocate a/w Mr A. R. Deshpande, Advocate for Respondent
No.5.

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 19th NOVEMBER, 2025.

1. Heard Mr. P. A. Gode, learned counsel for the petitioners, Mr. A. A. Madiwale, learned Assistant Government Pleader for the respondents/State and Mr. A. M. Ghare, learned counsel alongwith Mr. A. R. Deshpande, learned counsel for the respondent No.5.

2. In view of the checkered history of the litigation and without going into the factual aspects of the matter, it is noted that the proceedings arises out of precept record from execution proceedings under Section 54 of the Code of Civil Procedure. The Sub-Divisional Officer, Darwha, rejected the application filed by the petitioners. Subsequently, the Divisional Commissioner, Amravati, also rejected the appeal filed by the petitioners.

3. The issue whether the persons who filed the application for execution of decree are the legal heirs or not

was specifically raised by the present respondents including some of the petitioners. It is noted that the learned Sub-Divisional Officer has not dealt with that issue.

4. Without going into the merits of the matter, and more particularly without considering merits of the orders passed by both the authorities, I find it proper to remit the matter to the Sub-Divisional Officer, Darwha, to decide whether the persons who filed the application for execution of decree are the legal heirs of the original decree holder/judgment debtor.

5. As this specific issue was raised before the Sub-Divisional Officer, but the same was not addressed, therefore, the order dated 27.06.2016 passed by the Sub-Divisional Officer, Darwha, and the order dated 05.02.2019 passed by the Divisional Commissioner, Amravati, in Appeal No.1/LND-19/Darwha District Yavatmal/2018-19, are hereby quashed and set aside.

6. The Sub-Divisional Officer, Darwha, is directed to decide the proceedings afresh. While deciding the matter afresh, the Sub-Divisional Officer to consider all the objections raised by both the parties and pass an appropriate order in accordance with law. The Sub-Divisional Officer shall not be influenced by any observations made by both authorities in earlier proceedings.

7. Mr. Ghare, learned counsel for the respondent No.5 submits that restriction orders were issued by the Tahsildar for non-execution of the sale-deed. He submits that the sale-deeds were not executed and therefore, he seeks permission to file an appropriate application before the Sub-Divisional Officer. In view thereof, permission is granted to those persons who want to seek clarification or modification and if such applications are received, the same shall be considered by the Sub-Divisional Officer while passing an appropriate order in accordance with law.

8. The writ petition is partly allowed in the above said terms.

9. All the points raised in this petition are kept open.

(SIDDHESHWAR S. THOMBRE, J.)