



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

Writ Petition No. 6689 of 2015

ita Shikshan Mandal, through its President Murlidhar A. Bhonde, R/o Amravati ..vs.. Leela Mahadeorao Deshpande through her L.R. Shri Sanjay M. Deshpande and anr.]

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

Court's or Judge's orders

Mr. S. M. Vaishnav, Advocate for the petitioner
Mr. Jayant Mokadam, Advocate for respondent no. 1
Mr. P. V. Ghare, Advocate instructed by Mr. A. M. Ghare, Advocate for
respondent no. 2

CORAM : ANIL L. PANSARE J.

DATED : 21-01-2025

Heard.

2. The petitioner – judgment debtor no. 2 is aggrieved by order dated 8-10-2015 passed by the executing Court in Regular Darkhast No. 251/2012 (Old Special Darkhast No. 12/2006) rejecting the objection filed by the petitioner to the report of Commissioner.

3. The Court noted that despite having knowledge of the Commissioner's report dated 4-8-2010, the objection has been not raised for about four years. The Court further mentioned that the petitioner was not ready for hearing.

4. The petitioner's counsel argued that on the date when the matter was fixed for hearing, the petitioner sought adjournment on the ground that counsel appearing for it had expired.

5. In context with such submissions and because the Court has noted that petitioner's counsel was not ready

for hearing, the petitioner was directed to place on record copy of application seeking adjournment.

6. The counsel for the petitioner has tendered across the bar said application, taken on record. The grounds put forth for adjournment is that one of the Senior Counsels appearing in the matter has expired. The date is, however, not mentioned. That apart, what has been stated is that one of the Senior Counsels has expired. That itself mean that other counsel was present and in that context, the Court noted that the petitioner's counsel was not ready for hearing.

7. Be that as it may, the order indicates that the Commissioner had opined that the decree of partition cannot be executed until the structure standing thereon is demolished. In context with such report, the Court had directed the City Engineer to inspect the spot and submit report. The Court further noted that the matter is pending for opinion of City Engineer's report and no order has been passed to demolish the structure and accordingly, the Court held that the petitioner will get an opportunity once the report of Engineer is placed on record and rejected the application.

8. Considering the well reasoned findings of the Court below, I do not find any error in the approach of the trial Court if the order is to be examined in the supervisory jurisdiction under Article 227 of the Constitution. The petition is accordingly dismissed with no order as to costs.

(Anil L. Pansare, J.)