



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 7570/2025

(KAMALABAI MAAROTRAOJI MAHADULE & OTHERS **VERSUS** SHOBHARAM KISANJI GAWHANE
(DEAD) THR. LR's OMPRAKASH SHOBHARAM GAWHANE)

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

Court's or Judge's order

Shri A.S. Dhore, counsel for the petitioners.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 03, 2025.

Heard the learned counsel for the petitioners.

2. The petitioners' challenge is to the common order passed below Exhibits 1 and 117 dated 14.11.2025 in Regular Darkhast no.1 of 2016 passed by the executing Court directing the bailiff to remove the construction on the disputed area in the process of execution of the decree.

3. The petitioner has challenged the order passed by the executing Court directing the bailiff to remove construction over the disputed area as per the report of Public Works Department and handover possession of the disputed area to the decree holder. The petitioner is the judgement debtor, who has suffered a decree passed in Regular Civil Suit no.15 of 2005. The record reveals that the decree passed by the trial Court was confirmed up to the Supreme Court and the decree holder has filed the execution proceedings *vide* Regular Darkhast no.1 of 2016. By the decree under execution, the petitioners-judgement debtors were directed by an order of mandatory injunction to remove encroachment from the site shown by letters ABCD in the plaint map within three months and handover possession of that portion to the plaintiff.

4. Undisputedly, the decree is confirmed in favour of the decree holder up to the Supreme Court and there is no stay of any nature. In the process of execution of the decree for handing over possession of the site, the direction to remove construction on the disputed area is necessary. Although the counsel for the petitioners submitted that there was no need to remove the construction, however, on perusal of the record, it is clear that there is no perversity with the directions to remove construction on the disputed area for execution of the decree for possession.

5. No perversity is seen with the impugned order and hence, no indulgence is warranted with the impugned order under Article 227 of the Constitution of India. The writ petition is accordingly dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)