



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

Writ Petition No. 1102 of 2025

[Mrs. Santoshi d/o Baburao Gedam @ Santoshi w/o Dharmendra
Parekh ..vs.. Smt. Jaivantibai s/o Nathu Gedam and ors.]

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

Court's or Judge's orders

Mr. S. A. Dutonde, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 27-02-2025

Heard.

The argument is that the respondents herein, who are plaintiffs and defendants before the trial Court, have played fraud upon the Court by concealing vital facts.

The judgment and decree indicates that Anjanabai Gedam was original owner. She expired on 8-8-1991. She had three sons, namely, Natthu, Baburao and Ramdas. Baburao expired on 13-4-2008. Natthu and Ramdas also expired. Baburao had two daughters and two sons. This fact has been suppressed by the respondents. Petitioner is one of the daughters.

Learned counsel for the petitioner submits that Anjanabai has executed registered gift deed in the year 1986 and the suit property was gifted to Baburao and Ramdas. Even, this fact has been suppressed by the respondents.

The Court below passed judgment and decree dated 19-10-2019 allowing the suit partly. The defendants (respondent nos. 12 and 13) were directed to deliver possession of the suit property to the plaintiffs (respondent nos. 1 to 11) within three months from the date of decree. The decree is not complied and, therefore, execution proceedings

have been filed in the year 2020. Warrant of possession has been issued on 18-2-2025 but is yet to be executed. The petitioner then came to know about the proceedings and accordingly on 21-2-2025 filed objection under Order 21 Rule 97 of the Code of Civil Procedure, 1908 on the count that possession was handed over to her by respondent nos. 12 and 13 on 1-2-2025. According to the petitioner, on that day, she was made aware of the aforesaid proceedings. The petitioner has also filed application to maintain status quo. The executing Court, however, has passed order directing to list the application on a fixed date, which is 1-3-2025. The apprehension is that in the meantime, the decree may be executed.

Issue notice, returnable in two weeks.

In addition to usual mode, the petitioner shall serve the respondents through all permissible modes including service by Speed Post and file affidavit of service.

On the strength of submissions made by learned counsel for the petitioner that the respondents have obtained decree by playing fraud upon the Court, the order dated 18-2-2025 directing execution of possession is stayed by way of an *ex-parte* ad-interim relief.

All concerned to act upon authenticated copy of the order.

(Anil L. Pansare, J.)