

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

WRIT PETITION NO. 6819/2025

(ABHAY KRUSHNARAO BHALE & ANOTHER **VERSUS** MINA PRAKASH SATHE & OTHERS)

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

Court's or Judge's order

Shri S.V. Bhutada, counsel for the petitioners.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 10, 2025

Heard.

2. The petitioners' grievance is against rejection of their objection to the execution of the decree and the order to proceed with the execution of the decree passed in Regular Civil Suit No.2141 of 1988.

3. The learned counsel for the petitioners submits that the execution proceedings are filed despite the earlier execution application being dismissed for want of prosecution and by ignoring the purport of Order XXI Rule 106 of the Code of Civil Procedure, 1908, the execution application is being entertained. He submits that before filing the application for execution, the decree holders ought to have filed separate application under Clause 3 of Order XXI Rule 106 of the Code of Civil Procedure, 1908 and in absence thereof, the execution application ought not to have been entertained. He submits that the decree holders are trying to execute a time barred decree since the decree for execution of a mandatory injunction ought to have been executed within three

years. It is pointed out that the petitioners, who are senior citizens, are in possession of the house property wherein they are residing as on today and in view of the impugned order, they are apprehending dispossession, and therefore, interim relief is prayed for.

4. Issue notice to the respondents, returnable on 08.12.2025.
5. In the meantime, the possession of the petitioners may not be disturbed.

(PRAFULLA S. KHUBALKAR, J.)