



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO. 14326 OF 2023

WITH

**CIVIL APPLICATION NO. 2691 OF 2024
IN WRIT PETITION NO. 14326 OF 2023**

SUNIL CHINDHU PALVE AND OTHERS

VERSUS

SATISH SOMA BHOLE AND OTHERS

...

Mr. L.V. Sangit h/f. Ms. M.L. Sangit – Advocate for Petitioners

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 22.01.2026

PER COURT :

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1. Learned Counsel for the petitioners seeks permission to delete the name of respondent No. 4B.

2. Permission is granted.

3. The name of respondent No.4B is deleted at the risk of the petitioners. In view thereof, Civil Application is disposed of.

4. The necessary amendment shall be carried out within the stipulated period.

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5. Heard learned Counsel for the petitioners.

6. By way of the present petition, the petitioners challenge the orders dated 03.04.2023 and 15.04.2023 passed in R.D. No.137 of 1993 by the 3rd Joint Civil Judge, Junior Division, Jalgaon.

7. Learned Counsel for the petitioners submits that the executing Court on 03.04.2023 issued a possession warrant for handing over possession to the decree holder, pursuant to which a panchnama was effected on 13.04.2023 and possession was handed over to the decree holder. He further submits that some of the judgment debtors are dead and some of the owners are not present, therefore, no actual possession could be taken from them. He contends that the order passed against the deceased judgment debtors and the panchanama is, therefore, unjustifiable and liable to be set aside.

8. Having considered the submissions, the executing Court, by order dated 03.04.2023, issued a possession warrant, noting that Writ Petition No.2615 of 1993 filed by the judgment debtor challenging the judgment and decree passed in Regular Civil Suit No.75 of 1980 and Civil Appeal No.74 of 1985 had already been dismissed by this Court. The decree holder filed an application (Exhibit-19) seeking the possession warrant of the suit premises. Considering that the premises was demolished and it was a open plot, only *dejure* possession could be handed over, which was duly recorded in the panchanama on 13.04.2023. The absence of judgment debtors at the time of execution, including deceased debtors,

does not vitiate the order, as the property was open and there was no obstruction. The bailiff acted in accordance with the possession warrant. The possession warrant was executed by handing over the possession to the decree holder and the bailiff reported that the suit premises had already been demolished, leaving an open plot in its place.

9. In view of the above, there is no reason to interfere with the orders dated 03.04.2023 and 15.04.2023 passed in R.D. No.137 of 1993 by the 3rd Joint Civil Judge, Junior Division, Jalgaon, under Article 227 of the Constitution of India.

10. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

[SIDDHESHWAR S. THOMBRE]
JUDGE

Pooja Kale/