



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO. 4964 OF 2026

Abdul Riyaz Abdul Wahed Deshmukh
(Deceased through LRs) & othersPetitioners

VERSUS

Gausabi Raheman Alias Bademiya Deshmukh
& othersRespondents

Mr. V. B. Giri, Advocate for the Petitioners.
Mr. A. M. Phule, AGP for the State.

**CORAM : SMT VIBHA KANKANWADI
& AJIT B. KADETHANKAR, JJ.**

DATE : 5th MAY, 2026.

PER COURT :

1. Present petition has been filed calling record and proceeding of R.D.No. 27/1994 pending before the Civil Judge, Senior Division, Sillod, District Chhatrapati Sambhajanagar and also directing Respondent No. 2/Collector to execute the order of the Executing Court dated 11.07.2018 and thereby handover possession to the Petitioners as per the decree in Regular Civil Suit No. 92/1985.

2. Heard learned Advocate for the Petitioners and perused the documents on record. Here it is to be noted that no doubt the execution petition is pending since 1994 and therefore, the concerned

Court is duty bound to expedite the proceeding. However, it appears that there are hurdles in the nature of applications under Order 21 Rule 35 of the Code of Civil Procedure which were decided and thereafter again, on 05.12.2023 there is an application for calling the report from the District Collector, Chhatrapati Sambhajnagar and also for issuing warrant under Order 21 Rule 35 of the Code of Civil Procedure. An order came to be passed in the said Regular Darkhast No. 27/1994 on 07.01.2025 below Exhibit 297 which appears to be an application for cancellation and setting aside compromise deed along with grant of temporary injunction against the objectors. It appears that when the application was rejected on 07.01.2025, the present Petitioners have approached this Court by way of filing Writ Petition No. 5837/2025. This Court by order dated 06.05.2025, issued notice to the Respondents and passed the order of status quo in respect of ownership and also enjoined the parties from creating any third party interest. Under such circumstances, it appears that there is technical hitch in the mind of the learned Trial Court as the superior Court has passed the order to maintain status quo. We cannot then ask the Respondents to proceed with the matter before the Trial Court. Further, when already Darkhast is pending and the Petitioners themselves have filed another writ petition, they cannot

have backdoor entry by seeking relief under Article 226 of the Constitution of India.

3. We do not find any merit in the petition. Writ petition stands dismissed. However, so far as the execution petitions are concerned, already there are directions by the Hon'ble Supreme Court that they should be decided as expeditiously as possible and therefore, the learned Trial Court, whenever the things are cleared from the another writ petition by this Court, would expedite the matter.

(AJIT B. KADETHANKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

dyb