

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2256 OF 2025

Maya Kisan Somai & ors. ..Petitioners

Versus

Anupama Jamnu Hiranandani & ors. ...Respondents

Mr. Surel S Shah, Sr. Advocate, a/w Mr. Anand S Patil, for the
Petitioners.

Mr. Ravi Jadhav i/b Mr. Sachin Deokar, for the Respondent
Nos. 1, 5(a) to 5(c) & 6.

Mr. Avinash Avhad, for the Respondent Nos. 3(A) & 3(B).

Mr. Dormaan Dalal, Ms. Shirley Mody, for Respondent No. 4

CORAM : N. J. JAMADAR, J.

DATE : 9th APRIL 2026

Oral Order :

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order passed by the Executing Court on 10th May, 2024, whereby the Court Commissioner was appointed to sell/transfer the suit property and, in aid of the said action, do all necessary things including get the vacant possession of the suit property; another order dated 05th December, 2024 whereby the application preferred by the Petitioners to set aside the first order came to be rejected, and the third order dated 24th January, 2025 whereby the Bailiff

was authorized to break open the lock and take forcible possession of the suit property.

3. When the petition was listed before this Court on 18th February, 2025, after hearing the parties, this Court has passed the following order :-

“6. I have perused the judgment and order passed by the learned District Judge in Misc. Civil Appeal No.134 of 2016. The learned District Judge has ordered that, in the event the suit house cannot to be partitioned by meets and bounds, the suit house be sold and the sale proceeds be distributed. The provisions contained in the Partition Act, 1893 come into play. Even otherwise, for executing the decree by sale of suit house and distribution of the sale proceeds, it was necessary for the executing Court to ascertain the value of the suit house, determine the reserve price and have the process of bidding to obtain the optimum price. All the persons entitled to a moiety in the suit house, ought to have been provided a right to participate in the bid. Instead, the executing Court seems to have empowered the Court Commissioner to sell the suit house without ascertaining the valuation of the suit house and determining reserve price, and also take possession of the suit property. The Petitioners have been, in the process, dispossessed.

7. It is, therefore, necessary to issue notice to the Respondents and hear the Petition with regard to the legality, propriety and correctness of the orders passed by the executing Court. Since the Petitioners were in possession of the suit house and an affidavit has been filed on behalf of the Petitioners undertaking to deposit a sum of Rs.4,80,00,000/- in the executing Court, and in any event, the process of sale of the suit house will take time, it may be appropriate to direct that the Petitioners be put in possession of the suit house, subject to making deposit of Rs.4,80,00,000/- in the executing Court, within a period of four weeks.

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10. By way of ad-interim order, further proceedings in the Execution Petition stand stayed.

11. The Petitioners be put in possession of the suit house subject to the undertaking to be filed before this Court that the Petitioners would vacate the suit property in the event, the instant Petition is decided against the Petitioners, and the Petitioners will deposit an amount of Rs.4,80,00,000/- before the executing Court within a period of four weeks from today.”

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4. Mr. Shah, the learned Senior Advocate for the petitioners submits that, in pursuance of the aforesaid order, the petitioners have deposited a sum of Rs. 4,80,00,000/- (Rupees

Four Crores Eighty Lakhs) before the Executing Court, on 13th March, 2025. Upon deposit of the said amount, the petitioners have been put in possession of the suit house. The petitioners have also furnished an undertaking in terms of Paragraph No. 11 of the aforesaid order. A copy of the receipt issued by Nazar is tendered for the perusal of the Court.

5. Mr. Avhad, the learned Counsel for the Respondent Nos. 3(A) and 3(B) submits that, since the petitioners have been put in possession of the suit house, the stay to the execution proceeding is required to be vacated, and the Executing Court may be directed to proceed with the execution petition, in accordance with law.

6. Since this Court has tentatively indicated the steps which were required to be taken by the Executing Court before the sale of the suit house, it would be appropriate that, the order dated 24th January, 2025, on the application of the Court Commissioner (Exhibit-62), is quashed and set aside and the said application is restored to the file of the Executing Court for afresh decision after providing an opportunity of hearing to the parties.

7. Depending upon the order that may be passed by the Executing Court, further steps in the execution of the decree may be taken by the Executing Court.

8. Thus, in the light of the order dated 18th February, 2025 extracted above, the Writ Petition stands partly allowed.

9. The impugned order dated 24th January, 2025 on the application (Exh. 62) stands quashed and set aside.

10. The application (Exh. 62) is restored to the file of the Executing Court.

11. The Executing Court shall hear and decide the said application after providing an opportunity of hearing to the parties as expeditiously as possible.

12. The amount deposited by the petitioners shall abide the final order that may be passed by the Executing Court.

13. The learned Judge, Executing Court shall also re-visit the direction contained in clauses 3 and 4 of the order dated 10th May, 2024.

14. The Executing Court is also requested to make an endeavor to hear and decide the execution proceedings itself as expeditiously as possible.

15. It is clarified that, the observations in the order dated 18th February, 2025 were confined to the consideration of the prayer for interim relief, and the Executing Court shall decide the execution proceeding and the applications therein, on their own merits and in accordance with law.

16. The Writ Petition stands disposed.

[N. J. JAMADAR, J.]