



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4533 OF 2026

Yogesh Bafna

...Petitioner

V/s.

The Board of Trustees of the Port of
Bombay and Ors.

...Respondents

Mr. Viren Asar with *ms. Sakina Lokhandwala* and *Mr. Rajiv Pal* for the
Petitioner.

Mr. Mandar Bangale with *Ms. Sarita Yadav i/b. M/s. Bangale and
Associates* for *Respondent No.1.*

CORAM: SANDEEP V. MARNE, J.

DATED: 24 APRIL 2026.

P.C.:

1) The Petition challenges judgment and order dated 10 November 2025 passed by the Appellate Bench of the Small Causes Court dismissing the Execution Appeal No.101 of 2021 and confirming the judgment and order dated 11 February 2021 passed by the Trial Court in Obstructionist Notice No.17 of 1998.

2) I have heard Mr. Asar, the learned counsel appearing for the Petitioner and Mr. Bangale, the learned counsel appearing for Respondent No.1.

3) It appears that there were two sets of Obstructionists before the Executing Court. Obstructionist -Manecklal V. Bafna has filed affidavit of evidence. However, before cross-examination he passed away. There were 11 obstructionists including the Petitioner. However, none of them bothered to step into the witness box to give evidence. Obstructionist Notice remained pending almost 23 long years. However, none of the Obstructionists showed any interest in leading evidence in proving independent right to occupy the premises. In absence of any evidence to establish existence of independent right to occupy the premises, the Trial Court has rightly made the Obstructionist Notice absolute. The Appellate Court has also correctly dismissed the Execution Appeal filed by the Petitioner.

4) The learned counsel appearing for the Petitioner submits that an amount of Rs.69,00,000/- has been paid by the Petitioner to Respondent -Port Trust for effecting compromise in terms of judgment of the Apex Court in **Jamshed Hormusji Wadia V/s. Board of Trustees, Port of Mumbai and another¹**. However, it is a matter of fact that the compromise is not accepted by the Port Trust. In that view of the matter mere unilateral deposit of amount by the Petitioner cannot be a ground for inferring that the compromise is accepted by the Port Trust. If the Petitioner believes that he is entitled to seek refund of deposited amount, he may adopt appropriate proceedings for seeking refund of the amount. Even otherwise the suit premises are possessed by the Petitioner by obstructing the decree for over 29 long years. The Petitioner would have liability to pay charges for such occupation to the Port Trust in

1 (2004) 3 SCC 214

appropriate proceedings. In that view of the matter mere deposit of amount by the Petitioner towards the so called compromise cannot be a reason for inferring establishment of independent right to occupy the premises.

5) No infirmity is noticed in the concurrent findings recorded by the Trial and the Appellate Courts. Writ Petition is devoid of merits. It is accordingly **dismissed**.

[SANDEEP V. MARNE, J.]