

Mr. Narayan G. Rokade with Mr. Yogesh M. Aher, Mr. Ramchandra Wagh, for
Petitioner.
Mr. Abhay Kumar Apte, for Respondent No.1.

DATE : 5 MAY 2026

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 18 February 2026 passed by the learned Civil Judge, whereby the application seeking an amendment in an application filed under Order 21 Rule 97 of the Code of Civil Procedure, 1908, in the execution proceeding, came to be rejected.
3. The Petitioner – obstructionist filed an application (Exh.27) seeking a relief that the obstructionist be added as a party to the execution proceeding and the obstructionist be permitted to lead evidence. That application was rejected by the executing Court. The Appellate Court has allowed the appeal preferred against the said order on 12 December 2022. The issues were settled on 6 April 2026.
4. In the meanwhile, the Petitioner has preferred an application seeking

amendment to the obstructionist application (Exh.27).

5. Learned Civil Judge was of the view that, despite ample opportunity, the Petitioner did not lead evidence and the application for amendment in the obstructionist application was filed to delay the disposal of the execution proceedings.

6. The Petitioner raised obstruction to the execution of the decree on the ground that it is a nullity. The executing Court has settled the issues. The Petitioner has been granted permission to lead evidence. In the evidence which may be led by the Petitioner, the Petitioner can raise the grounds on which the decree is alleged to be a nullity. In view of the decision of the Supreme Court in the case of **Rahul S. Shah V/s. Jinendra Kumar Gandhi and Ors.**¹, the obstruction proceeding is required to be decided on the basis of the material and documents on record and permission to lead evidence is not required to be granted as a matter of course.

7. In the case at hand, the Petitioner has already been granted permission to adduce evidence. Therefore, at this stage, there is no propriety in entertaining the application for amendment in the obstruction application. Let the Petitioner adduce evidence within a period of two months from the next listing of the execution proceeding.

8. The Executing Court is requested to hear and decide the Execution

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Application itself finally within a period of six months from the next listing of the Execution Application.

9. The Writ Petition stands disposed.

(N.J.JAMADAR, J.)