

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7203 OF 2026

BHALCHANDRA
GOPAL
DUSANE

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Date: 2026.06.17
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Sundanda Ashok Mane

.. Petitioner

Vs.

Habib Husein Karmali Patel

.. Respondent

Mr. V.V. Singh a/w Mr. Pradeep D. Bhawe, Advocate for Petitioner.
None for Respondent.

CORAM : ARUN R. PEDNEKER, J.

DATE : 16th JUNE 2026.

P.C. :

1. In the suit filed by the Respondent for recovery of possession, decree was passed against the Petitioner. The appeal preferred against the said decree was also dismissed on the ground of delay, against which Writ Petition has been filed and is pending consideration. Thereafter, in execution of the decree, the suit premises were handed over to the Respondents. An application was also filed before the Executing Court by the Respondents for removal of the articles from the suit premises after recording an inventory. The present Petitioner resisted the said application by contending that the decree was obtained by playing fraud and that Writ Petition is pending before this Court challenging the Decree. However, since the decree was already executed, the executing Court directed to the Defendants/Petitioners

herein to remove the articles lying in the suit premises of the Plaintiff-Decree Holders within a period of 15 days, failing which the articles shall be auctioned in accordance with law.

2. Challenging the order of the Executing Court, an appeal was filed before the Small Causes Court at Mumbai (Appellate Bench). The said appeal was also rejected on the ground that the decree had already been executed.

3. Learned counsel for the Applicant submits that, in the event the articles are removed, he apprehends that third-party rights may be created in the property and that his Writ Petition pending before this Court against the order rejecting the delay condonation application may become infructuous. The Applicant is at liberty to seek such substantive relief as may be available in law in the proceedings initiated by him and pending before this Court in Writ Petition No. 9486 of 2025. However, this Court finds no reason to interfere with the impugned order, as the decree has already been executed and possession of the suit property has already been handed over to the Decree Holder. No case is made out for interference with the impugned order. The Writ Petition is accordingly dismissed.

[ARUN R. PEDNEKER, J.]