



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4035 OF 2024

Shabbirshah Salandarshah

Vs.

Gram Panchayat, Kothali, Dist. Buldhana and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri K. S. Narwade a/w. Shri Vishwa Gadbaile, Advocate for petitioner.
Shri V. M. Vishwarupe a/w. Shri Harsh Deshpande, Advocate for respondent
no. 2.

CORAM :- M. W. CHANDWANI, J.

DATED :- 27.01.2026

Heard.

2. The common order dated 30.04.2024 passed below Exh. 36 & 44 by the CJJD, Motala in Regular Darkhast No. 3/2014 rejecting the objection of the petitioner filed vide application (Exh.44) is under challenge in this petition.

3. The petitioner is the original defendant in Regular Civil Suit (RCS) No. 116/2004. The said suit was decreed in favour of respondent no. 2 and the petitioner was directed to remove stall (Tapri) which was constructed in front of shop no. 1 of respondent no. 2. Hence, Regular Darkhast No. 3/2014 came to be filed by respondent no. 2 for execution of the said decree. By filing application, the petitioner raised an objection to the said decree on the premise that, the stall in question was

given on rent to the petitioner by respondent no. 1- Gram Panchayat, Kothali, which has also been admitted by respondent no. 1- Gram Panchayat in subsequent suit bearing RCS No. 59/2015 filed by the petitioner wherein the notice for removal of the stall was further challenged.

4. According to the petitioner, in the subsequent proceedings the right of the petitioner has been crystallized hence, he took objection against the execution proceedings filed by respondent no. 2 and sought dismissal of the execution proceedings on the ground that, he became tenant of the Gram Panchayat and he cannot be asked to remove the stall. The said objection was rejected by the Executing Court vide impugned order, hence this petition.

5. It is not in dispute that this point has already been raised by the petitioner in RCS No. 116/2014 and after considering the pleadings of both parties, a decree came to be passed by the Trial Court against the petitioner. Now, the petitioner after filing a new suit against the Gram Panchayat, has raised the same objection before the Executing Court. Earlier, if the Court has already considered this aspect and passed a decree which was contested by the petitioner upto the Second Appeal and further confirmed by this Court, the petitioner cannot again agitate the same issue in different colour that too before the Executing Court as it would amount to serving the same food in a different pot.

Therefore, I do not see any reason to interfere in the impugned order passed by the Executing Court.

6. The petition is devoid of merits and it is dismissed.

(M. W. CHANDWANI, J.)