



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2872 OF 2025

KANHU GOPALA GEDAM (DEAD) THR. LRS. AND OTHERS
VERSUS
VISHNAJI VANOBAJI LAKADE, (DEAD), THR. LRS.

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. M.P Sagdeo, Advocate for Petitioners.
Mr. M.A. Deo, Advocate for Respondent Nos.3 & 4.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 22nd JANUARY 2026

PER COURT :-

1. Heard learned Advocate for the petitioners.
2. By this petition, the petitioners have challenged the order dated 27.01.2025, passed by 9th Joint Civil Judge Junior Division, Gadchiroli, rejecting the objection filed by Judgment Debtor No.14 at Exhibit 36 and the application for permission to lead evidence at Exhibit 54.
3. Learned Advocate for the petitioners submits that the petitioners are the judgment debtors in the execution proceedings filed by the respondents for execution of judgment and decree dated

22.10.1993, passed in Regular Civil Appeal No.218 of 1985, by which the decree of possession with respect to the suit land was granted. It is pointed out that the decree has attained finality since the same is not set-aside by the appellate courts. He submits that the issues raised by way of objection goes to the root of the controversy and ought to have been adjudicated properly.

4. Learned Advocate for the respondents submits that, during pendency of the execution proceedings, judgment debtor No.14 has filed the objection under Section 47 of the Civil Procedure Code, 1908 (for short, "C.P.C."), raising several contentions about maintainability of suit, issues about rights of the plaintiff to seek the decree and several other issues, which were already adjudicated in the civil suit. He submits that the judgment debtors have filed a separate application at Exhibit 54, seeking permission to lead evidence in support of the contentions of the objection filed under Section 47 of C.P.C. Both these applications came to be rejected by the impugned order. He submits that the decree holders are deprived from enjoying the fruits of the decree and the objection under Section 47 of C.P.C. was filed only to prolong the execution proceedings.

5. A perusal of the impugned order shows that the objections sought to be raised under Section 47 of C.P.C., are not

related to the issues about adjudication, satisfaction and discharge of decree. Hence, same cannot be considered to be objections under Section 47 of C.P.C. The executing court, while rejecting the applications at Exhibit 36 and 54, has recorded elaborate reasons in paragraph No.15 of the impugned order. It is also recorded that the issues sought to be raised by way of objection under Section 47 of C.P.C., by the judgment debtor are neither related to the inherent jurisdiction of the court nor related to the question of execution, discharge and satisfaction of the decree.

6. A perusal of the impugned order shows that the executing court has given due consideration to all the relevant aspects and passed the impugned order. There is no perversity in the reasons recorded while passing the impugned order. Hence, no indulgence is warranted under Article 227 of the Constitution of India with the impugned order. Thus, the writ petition is dismissed with no order as to costs.

7. In view of the dismissal of the instant petition, Civil Application (CAW) No.1409 of 2025, is disposed of.

(PRAFULLA S. KHUBALKAR, J.)