

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.1 OF 2014

- 1] Shivshankar Birajsing Pardeshi
Since deceased through his
Legal Representatives:
- 1A] Gokulsing Shivshankar Pardeshi,
Age-40 years, Occu:Agriculture,
R/o-At Post Nagardeola,
Tq-Pachora, Dist-Jalgaon,
- 1B] Sau. Sadhanabai Devising Pardeshi,
Age-43 years, Occu:Household,
R/o-Beghar Plot Vasti,
Dharangaon, Tq-Dharangaon,
Dist-Jalgaon,
- 2] Dagadusing Barajsing Pardeshi,
Age-59 years, Occu:Agriculture
- 3] Kanhaiyasing Birajsing Pardeshi,
Age-59 years, Occu:Agriculture,
- 4] Shaneshwarsing Birajsing Pardeshi,
Age-46 years, Occu:Agriculture,
- 5] Jaygopal Birajsing Pardeshi,
Age-46 years, Occu:Agriculture

Petitioner Nos. 2 to 5:
R/o-Nagardeola, Pardeshi Galli,
Tq-Pachora, Dist-Jalgaon.

...PETITIONERS

VERSUS

Chagansing Mansing Pardeshi,
R/o-At Post Nagardeola,
Tq-Pachora, Dist-Jalgaon.

...RESPONDENTS

...
Shri.P.S.Shendurnikar Advocate for Petitioners.
Shri.S.M. Kshirsagar Advocate for Respondent.
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CORAM: A.I.S. CHEEMA, J.

DATE : 28TH JANUARY, 2014

ORAL ORDER :

1. Heard learned counsel for Petitioners.
Respondent appears on Caveat through Advocate.
Perused the Revision Application.

2. In spite of detailed and clear orders
passed in Writ Petition Nos. 494 of 2012 and 495
of 2012, dated 1st August 2012, regarding the
nature of decree in question, and the trial Court
being aware that it is a preliminary decree, order
dated 3rd October, 2013 has been passed in the

Regular Darkhast No.16 of 2014. Already High Court took pains to discuss the concerned case law on the subject, still the trial Court appears to have decided on its own that it can execute the preliminary decree by appointing the Commissioner in the execution, and held that no further adjudication is necessary. The trial Court appears to be under impression that it can continue with the order of appointment of Commissioner, passed on 15th February, 2011 and carry out the execution. The trial Court was referred to the orders passed by this Court in Writ Petition Nos. 494 of 2012 and 495 of 2012. There was no reason for the trial Court to totally ignore the orders of the High Court and pass orders as is done.

3. Keeping in view the orders dated 1st August 2012 passed by this Court in Writ Petitions, the order dated 3rd October, 2013 passed by the trial Court is not at all maintainable and is quashed and set aside. The execution shall not

proceed without decree holder taking out final decree proceedings and without final Decree being passed. Revision Application is disposed of accordingly.

[A. I. S. CHEEMA, J.]

asb/JAN14