

Manvendra Singh
Civil Judge (Jr. Division), Narkatiaganj
Execution Case No. 04/2016
CIS No.- TS 140/2019
Ms. Raj Kumari & Ors. Vs. Reyazulhasan
Date of Order: 03.08.2026

In the Court of Manvendra Singh, Civil Judge (Jr. Division), Narkatiaganj
Execution Case No. 04/2026

Ms. Raj Kumari & Ors.....Decree Holders
V/S

Reyazulhasan.....judgment debtor

<u>DATE</u>	<u>ORDER</u>	<u>REMARKS</u>
03.08.2026	Both the parties have filed their attendance. A petition dated 20.07.2026 has been filed on behalf of the judgment debtors which is presented for hearing on 03.08.2026. The learned counsel on behalf of judgment debtors submits that the instant execution case finds its inception from Title Suit 188/2005. Further submits that appellants are residing in the suit property along with their family members and having their residential house thereon. If the execution proceeding is allowed to continue, the appellants shall be forcibly evicted and their houses may be demolished which may cause irreparable loss, injury to the appellants and further submits that a title appeal has been filed against the judgment which involves complex question of title and prays that the present execution case be stayed till disposal of title appeal. The Ld. Counsel on behalf of decree holder vehemently opposes the submission advanced by the counsel on behalf of judgment debtors. He submits that the instant execution case finds its inception from title suit no. 188/2005 which has been filed ancestors of the decree holders and almost after passing of 20 Years, a judgment was passed in title suit 188/2005 dated 28.11.2025 in the favour of plaintiff. It has been further submitted that all the facts, documents and witnesses were examined in detail by the court during the trial of the TS 188/2005 and subsequently judgment was passed which held that the instant judgment debtor	

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Continue 03.08.2026	are encroachers and the suit property mentioned in schedule no. 2, be handed over to the decree holders. Heard submission the advanced by the Ld. Counsels on behalf of decree holder & judgment debtors. In context to scope and extent of objection under section 47 of CPC, law is well settled that at the stage of execution of a decree and objection under section 47 of the CPC as to executability of the decree can be raised but such objection is limited to the ground of jurisdictional infirmity or voidness. Only a decree which is nullity can be a subject matter of objection under section 47 of CPC and not the one which is erroneous either in law or in facts. <i>Electro Steel Ltd. Vs Ispat Carrier Pvt. Ltd (2025) 7SCC773.</i> Similarly in <i>Basudev Dhanji Bai Modi Vs Raja Bhai Rahman (1970) 1SCC670.</i> It was held that a decree suffering from illegality or irregularity of procedure can not be turn as in executable by the executing court. Applying the same principles in the instant case and after perusing the entire record, it transpires that the objection petition filed by judgment debtors dated 20.07.2026 is based upon the averment that the judgment debtors are residing with their family members in the suit property and if the execution proceedings were allowed to continue then the judgment debtors would be constrained to evict the suit property that would monetary loss to the judgment debtors. However, as per settled principles of law as discussed above it is clearly settled that even if the decree is	
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