

Order below Exh. 1 in M.A.C.P. Darkhast No. 33/2018**(Subhash Gangaram Karande etc. 1 Vs. Gahininath Vishwanath Rokade etc. 1)****(CNR-MHSO010038442018)**

Present execution petition is filed to execute an award passed in M.A.C.P. No. 62/2015. By virtue of said award the respondents herein were directed to pay Rs. 8,69,688/- to the petitioners along with interest thereon at the interest of 9% per annum. The petitioners have calculated decretal amount to the tune of Rs. 11,15,477/-. Initially, Jangam Warrant was issued. However, decretal amount could not be recovered. The petitioners moved an application at Exh. 36 to attach the property of the respondent No. 1 bearing Gat No. 115/1/A, situated at village Adhegaon, Tal. Mohol, Dist. Solapur. Accordingly, warrant was issued to attach said property vide Exh. 38 and Bailiff of the Court has complied said order. Now, the petitioners have claimed that the property of the respondent No. 1 shall be sold in public auction.

2) J.D. No. 1 moved an application at Exh. 41 requesting the Court not to issue warrant against him as he has preferred an appeal. This Court passed an order and asked J.D. to produce stay order till next date and it was informed that the Court will pass necessary order in case of failing to do so. However, J.D. has failed to produce any stay order. Present execution proceeding is arising out of claim instituted in the year 2015. In the said background, it would not just and proper to stay the proceeding anymore, otherwise the Decree Holder would not in position to get fruits of an award. Hence, said

application at Exh. 41 is rejected.

3) On perusal of record, it can be seen that while passing an order of attachment of property notice was not issued under Sub Rule (1-A) of Order 21, Rule 54 of the Code of Civil Procedure. Hence, it is necessary to issue notice to the J.D. No. 1 which shall state the time and date of sale as provided in Order 21, Rule 66 of the Civil Procedure Code.

4) In the result, proceed to pass following order.

i) Issue sale proclamation to sell the property belonging to J.D. No. 1 bearing Gat No. 115/1/A, situated at village Adhegaon, Tal. Mohol, Dist. Solapur.

ii) Issue Notice to J.D. as provided in Order 21 Rule 66 of the Civil Procedure Code.

Date : 22/11/2024
Solapur.

(Jaydip J. Mohite)
District Judge-3
Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order are same word to word as per the original Judgment/Order.

- (a) Name of the Stenographer : Mahesh Arjun Kore, Stenographer (Grade-I)
- (b) Court : District Judge-3, Solapur.
- (c) Date of Order : 22/11/2024
- (d) Order signed by the Presiding Officer on : 22/11/2024
- (e) Order uploaded on : 22/11/2024