

ORDER BELOW EXE-142

1. The present application has been filed by the learned advocate for the decree holder for re-issuance of warrant for the reasons stated therein on 21.06.2019. I have heard the learned advocate for the decree holder. Ld. Advocate argued according to the facts, as stated in the application and argued that the third party are in possession of the suit property to the extent of 80 gunthas on the northern side of the disputed property. Therefore, the decree holder is entitled to get the remaining disputed land. Therefore, prays for to re-issue warrant against the judgment debtor.

2. The learned advocate Mr. B. C. Patel on behalf of third party argued that they have filed an application below Exh.5 which was rejected. Therefore, aggrieved by that order, the third party filed Regular Civil Appeal being R.C.A. No.135/2018 and the same was dismissed. Therefore, the third party/objector filed Second Appeal No.138/2019 in which they have applied for stay and the Hon'ble High Court of Gujarat ordered to maintain status quo. Ld. Advocate for the objector draws my attention and read para-6 of

the order, passed by the Hon'ble High Court of Gujarat on 12.06.2019. The learned advocate argued that as the order passed by the Hon'ble High Court of Gujarat, the present Execution Petition is stayed . Therefore, the present application is not tenable.

3. I have heard both the learned advocate and perused the records, the decree holder prayed for reissue of warrant qua the remaining disputed land. It is say of the applicant that according to the objectors they are in possession of property to the extent of 80 gunthas on the northern side. Therefore, the remaining disputed land must be given to the decree holder. Looking to the records, it transpires that in the present execution petition, the objectors have filed objection vide Exh.45 and the same came to be rejected being aggrieved by the order. The objectors have preferred Regular Civil Appeal being R.C.A No.135/2018 before the Hon'ble District and Session Court which also came to be dismissed. Therefore, the objectors have approached before the Hon'ble High Court of Gujarat and filed the Second Appeal No.138/2019 in which by way of Civil Application (For Stay) No.1/2019, the order passed by the Hon'ble High Court is produced by the learned Advocate for the

decree holder. In the said order in para-6, the Hon'ble High Court of Gujarat ordered as under:

Para-6:- It is ordered that the status quo qua the suit property shall be maintained by the parties, till the next date of hearing. The Execution Proceedings in question, shall remain stayed.

It is ordered that the status quo qua the suit property shall be maintained by the parties, till the next date of hearing. The Execution Proceedings in question, shall remain stayed. It is also ordered that issue notice to the respondents returnable on 24.07.2019. Looking to the order passed by the Hon'ble High Court, it is clear that parties shall maintain status quo qua the suit property till the next date of hearing i.e. returnable date 24.07.2019. Therefore, the present Execution Petition is stayed till 24.07.2019. Therefore, the present application cannot be granted at this stage. Hence, I passed the following order in the interest of justice.

ORDER

1. The present application filed by the decree holder vide Exh.142 is hereby dismissed.

2. No order as to costs.

Signed and pronounced in the open Court today i.e. 12th day of the month of July, 2019

Place : Nadiad
Date : 12/07/2019

(Sirajuddin Ganibhai Mansuri)
Principal Senior Civil Judge
Nadiad (Dist: Kheda)
GJ00603

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