

IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT SEDAM

PRESENT: SRI. SAGAR GURUGOUDA PATIL

Senior Civil Judge & JMFC., Sedam ^{B.A., LL.B.}

DATED THIS THE 18th DAY OF MARCH-2026

E.P. No.52/2023

Decree holders:

Sushilabai and another

(Advocate for D.Hr by Sri.J.A.P.)

//V E R S U S//

Judgment Debtor:

Noor Mohammed Shah

(Advocate for J.Drs. by Sri.B.T.)

ORDER ON No.2

Sushilabai and Another

Applicant/s/D.Hrs

//Versus//

Noor Mohammed Shah

Opponent/J.Dr.

Order on I.A.No-2 U/o 21 Rule 66 of CPC

The decree holders have filed this IA U/O 21 Rule 66 of CPC and sought to issue sale proclamation order in respect of 7/32th share of the JDR i.e., land measuring 01 acre 24 guntas out of 07 acres 14 guntas in Sy.No.13/1 of Sedam village.

2. The decree holder No.1 has sworn to an affidavit in support of IA No.2 and stated that they had filed MVC No.451/2020 on the file of this court and the same was allowed awarding compensation of Rs.12,76,000/- with interest. Thereafter, the decree holders have filed this petition. The Jdr., is avoiding the executing of the award. The land measuring 7 acres 14 guntas in Sy.No.13/1 of Sedam is within the jurisdiction of this court. It was owned by one Abdul Wahid @ Chunnu Miyan who is father of Jdr. On his death his wife Zaina Bee and four sons are having share in the said property. As per the Muslim law the Jdr., is having 7/32th share in the said property. This court has already attached the said 7/32th share of the JDR i.e., land measuring 01 acre 24 guntas out of 07 acres 14 guntas in Sy.No.13/1 of Sedam. Therefore, to realize the decree amount it is just and necessary to sell the property attached by this court through public auctions.

3. The Jdr, has filed objections to I.A. and denied the contents of I.A and affidavit. The land in Sy.No.13/1 of Sedam is owned and possessed by one Zaina Bee. The said Zaina Bee is not related to the family of the Jdr. He is residing separately. Therefore, the said property cannot be sold. He has contended

that the said property is not in the name of JDR and it is in the name of his mother. The JDR is residing in separate rental house. The application is not maintainable. Hence, prays to dismiss the I.A.

4. Perused the records. Heard arguments.
5. The following points arise for my consideration are.

- 1) Whether the decree holders have made out case to sell the 7/32th share of the JDR in the land measuring 07 acres 14 guntas in Sy.No.13/1 of Sedam?

- 2) What order?

6. My findings on the above points are as under:

Point No:1 : In the Affirmative.

Point No.2: As per final order for the following:

REASONS

7. **Point No.1:-** The records show that the decree holders have filed this petition for recovery of the award amount of Rs.12,76,000/- with interest from the judgment debtor. During pendency of the petition they have filed this application.

8. The copy of the award produced along with the petition shows that the decree holders had filed petition in MVC

No.451/2020 against the Jdr and another seeking compensation and the same was allowed awarding compensation of Rs.12,76,000/- with interest and the Jdr was held solely liable to pay the compensation amount. The decree holder No.1 has stated on oath that the judgment debtor did not pay the said award amount. Therefore the decree holders have filed this application.

9. The RTC extract of the property from the year 2014 to 2022 shows that earlier the suit property was standing in the name of father of the Jdr, by name late Abdul Wahid @ Chunnu Miyan. The mutation register shows that after the death of Abdul Wahid @ Chunnu Miyan the property was mutated in the name of his wife Zaina Bee on the basis of inheritance. It is settled law that under the Muslim law as soon as a male dies his wife and children inherit the property as residuaries and sharers. Accordingly, in this case the Jdr, is having $7/32$ share in the property. The present RTC extract shows that the land is standing in the name of mother of the Jdr., Zaina Bee. Since Jdr., is having $7/32^{\text{th}}$ undivided share in the property it can be sold through public auction for satisfaction of the decree of the decretal amount.

10. This petition is filed for the recovery of the award amount of Rs.12,76,000/- with interest. If during pendency of this petition the judgment debtor alienates the suit property to third party it will become very difficult to recover the award amount. This court has already attached 7/32th share of JDR i.e., land measuring 01 acre 24 guntas out of 07 acres 14 guntas in Sy.No.13/1 of Sedam. In spite of it the JDR did not pay decretal amount to the decree holders. Therefore in order to satisfy the decree the undivided 7/32th share of the JDR in the above property needs to be sold through public auction. Therefore, it is just and proper to sell the 7/32th share of JDR in the property already attached by this court to satisfy the decretal amount. Hence, I answer point No.1 in the Affirmative.

11. Point No.2:- For the foregoing reasons, I proceed to pass the following:

ORDER

I.A.No.2 U/O 21 Rule 66 of CPC filed by the decree holders is hereby allowed.

Acting U/O 21 Rule 64 of CPC this court it is hereby ordered that the property attached by this court i.e., 7/32th share of

JDR i.e., land measuring 01 acre 24 guntas out of 07 acres 14 guntas in Sy.No.13/1 of Sedam is liable to sale proceeds shall be adjusted towards the award amount and paid to the decree holders and excess amount if any shall be paid to the judgment debtor.

Office to issue notice to the judgment debtor calling upon him to appear before the court on 23.04.2026 to take notice of the date to be fixed for settling the terms of the proclamation of sale.

(Dictated to the Stenographer directly on computer, corrected, singed and then pronounced by me, in the open Court on this the **18th day of March-2026**)

(Sagar Gurugouda Patil)
Senior Civil Judge & JMFC,
Sedam.