

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,  
SEDAM

**PRESENT:**

Sri SAGAR GURUGOUDA PATIL  
B.A., LL.B(Spl.)  
Senior Civil Judge & JMFC, Sedam

Dated: 16-04-2025.

**E.P. No.18/2024**

Decree holder/s :

1. Smt.Waheda Fatima W/ Syed Munawar Ali, Age: 45 years, Occ: Agriculture, R/o House of Gulam Mohammad H.No.5-467, Noor Bagh Darga Road Kalaburagi.
2. Rahat Mateen W/o Meer Afzal Alikhan, Age: 37 years, Occ: Agriculture, R/o 23-6-33 Hari Bowli, Shalibanda Hyderabad (T.S.)
3. Farhat Yasmeen W/o Khadeer Ahamad Khan, Age: 55 years, Occ: Agriculture, R/o 23-6-33 Hari Bowli Shalibanda Hyderabad (T.S.)
4. Wajida Fatima W/o Syed Azmoddin Hussaini, Age: 50 years, Occ: Agriculture, R/o House of Gulam Mohammad, H.NO.5-467, Noor Bagh, Darga Road, Kalaburagi.

(Smt/Sri Narayan R., Advocate)

VS

## Judgment Debtors/s :

1. Mirza Muzaffar Baig S/o Mirza Anwar Baigh, Age: 42 years, Occ: Agriculture, R/o H.No.8-1-40 Block B Samata Toli Chowki Colony, Hyderabad (T.S.).
2. Mirza Muddassir Baig S/o Mirza Anwar Baig, Age: 41 years, Occ: Agriculture, R/o Maharaja Hotel, Near Petrol Bunk, Sedam, Tq: Sedam, Dist: Kalaburagi.
3. Azmat Mubeen D/o Mirza Anwar Baig, Age: 35 years, Occ: Agriculture, R/o H.No.2-6-77 Choti Base Sedam, Tq: Sedam, dist: Kalaburagi.
4. Fatima Musrat Tabassum W/o Late Mubassirbaig, Age: 45 years, Occ: Household, R/o H.No.2-6-77, Choti Base, Sedam, Tq: Sedam.
5. Mirza Sohail Baig S/o Late Mubassirbaigh, Age: 21 years, Occ: Household, R/o H.No.2-6-77, Choti Base, Sedam, Tq: Sedam.
6. Mirza Anwar Baig S/o Late Mubassir Baig, Age: 19 years, Occ: Household, R/o H.No.2-6-77, Choti Base, Sedam, Tq: Sedam.
7. Mirza Akram Baig S/o Late Mubassir Baig, Age: 16 years, Occ: Agriculture, R/o H.No.2-6-77, Choti Base, Sedam, Tq: Sedam through next friend natural mother-Fatima Musrat Tabassum W/o Late Mubassir Baigh, Age: 45 years, Occ:

Household, R/o H.No.2-6-77, Choti Base,  
Sedam, Tq: Sedam.

(J.Dr.1, 2, 4 to 7 by Smt/Sri.C.K.Kulkarni.  
Advocate)  
(D.3 by Smt/Sri.Pooja D.J..Advocate)

**RANK IN IA 3**

Mirza Muzaffar & others : Applicant/s/J.Drs.

VS

Smt.Waheda Fatima & others : Opponent/s/D.Hr.

i.	Provision under which the application is filed	U/Section 151 of CPC
ii	Relief sought for	Execution of decree for partition & separate possession
iii	The date on which the application is filed	22-01-2025
iv	Number of application	One
v	The date on which the objections are filed by different opponents	01-02-2025
vi	The date on which the orders were passed on the said application	16-04-2025

**ORDERS ON IA 3**  
**Under Section 151 of CPC**

The judgment debtors have filed this application Under Section 151 of CPC and sought to reject the petition as not

maintainable.

2) The judgment debtor No.1 has sworn to an affidavit in support of IA and stated that as per the terms and conditions of the decree the judgment debtors have to develop the lands in Sy.No.625/1/A1 and 611/6 of Sedam into non agricultural land and get approval of layout by competent authority and demarcate the plots. Accordingly, the judgment debtors allotted plots to decree holders and judgment debtors handed over possession of their respective plots to decree holders and the decree holders 3 and 4 already sold their plots by way of agreement of sale and received the amount.

3) The judgment debtors already handed over possession of the plots to the decree holders. Therefore, the question of filing this execution petition does not arise. Hence, this petition is not maintainable. The agricultural land is not in existence and now it is to be developed into layouts and 70% of work is already completed. The judgment debtors already gave possession of their plots to the decree holders. Therefore, the question of delivery of possession does not arise. Hence, prays to allow the IA.

4) In support of the above affidavit of judgment debtor No.1 judgment debtor No.3 has also sworn to an affidavit in support of IA and stated that as per the terms and conditions of the compromise decree passed in OS

No.77/2018 the judgment debtors developed the suit lands into plots and handed over possession of 20 plots each to the shares of the decree holders and 2 plots each in lands Sy.No.625/1/1/A and 611/6. The decree holders 3 and 4 already sold their portions of plots that is two plots each in Sy.No.625/1/A1. She herself and decree holders 3 and 4 sold out plots of their shares by way of agreement of sale. The suit lands are already converted into NA and layout is approved. The plots are demarcated and upto 70% work was completed and only NOC from competent authority is required to get Khata extracts.

5) She has further stated that earlier development of 40% of the land was the criteria to issue khata extract but now it is changed to 100% development, therefore delay is caused. Further due to Covid-19 Pandemic and the suit filed by her father's sister the delay was caused. The delay is not on the part of the judgment debtors and the same is due to change in the requirements made by the competent authority. Therefore, this petition is not maintainable. Hence, prays to allow the IA.

6) The decree holders have filed objections to IA and contended that the contents of the affidavit are not readable and the same are against the provisions of law. They have denied contents of the affidavit that as per the terms of compromise decree passed in OS No.77/2018 the

suit lands are already developed and the judgment debtors handed over possession of 20 plots each to decree holders and two plots each in lands Sy.No.625/1/A1 and 611/6 of Sedam. The judgment debtor No.1 and 2 developed land in Sy.No.625 of Sedam but they have not given plots to the decree holder within three years as agreed. The decree holders 1 and 2 have not received plots in Sy.No.625 of Sedam till this date. Land in Sy.No.611 is not developed and not a single plot is released. Therefore, the question of handing over possession of the plots does not arise.

7) It is false to state that decree holders 3 and 4 already sold plots of their shares. The decree holders 3 and 4 were in need of amount and the judgment debtors 1 and 2 gave amount to them and obtained the signatures on the paper. The decree holders 3 and 4 do not know the contents of the documents. They have not entered into any agreement of sale. They signed the papers believing the judgment debtors 1 and 2. The judgment debtors 1 and 2 misused the trust of the judgment debtors 3 and 4 and got their signatures on the agreement keeping them in dark. The alleged purchasers did not meet the judgment debtors 3 and 4. Actual rates of the plots is more than Rs.10 lakhs and hence the question of selling the plots for a price less than Rs.10 lakhs does not arise. The judgment debtors 1 and 2 are not willing to give two plots each in developed land in

Sy.No.625. In order to harass and to bring the decree holders 1 and 2 to agree to their terms their delaying the handing over of possession of the plots.

8) The judgment debtor No.3 does not know the contents of the affidavit filed in support of the IA. The judgment debtors 1 and 2 got filed affidavit of judgment debtor No.3 by keeping her in dark. It is submitted that till development is completed the plots remain with TMC and only on completion of the development the plots will be released. The plots are not released till this day. Therefore, the question of handing over possession does not arise. The judgment debtors 1 and 2 have not developed the plots and they want to sell the plots and give meagre amount to the decree holders. The judgment debtors 3 and 4 who were in pressure received amount but they have not sold the plots. Hence, prays to dismiss the IA.

9) In support of the above objections the decree holders 1 and 2 have filed affidavits by reiterating the contents of their objection statements.

10) On the basis of the above facts the following points arise for my consideration:

- 1) Whether the judgment debtors prove that they have complied the terms and conditions of the compromise decree passed in OS No.77/2018 by this court and hence this petition is not maintainable?

2) What order?

11) Perused the records. Heard arguments.

12) My answer to the above points are as under:

- 1) AS PER THE OBSERVATION
  - 2) AS PER THE FINAL ORDER
- for the following:

### **REASONS**

13) **POINT No.1:** The decree holders have filed this petition to execute the compromise decree passed in OS No.77/2018.

14) The compromise decree shows that 20 plots each were allotted in Sy.No.611/6 to decree holders and two plots each were allotted in Sy.No.625/1/A1 to decree holders 1, 3 and 4. In the compromise decree decree holder and judgment debtors agreed that in case the judgment debtors fails to develop the land in Sy.No.611/6 into layout/plots within three years the decree holders are entitled for land measuring 2 acres each in land bearing Sy.No.611/6 and in case the judgment debtors fails to develop land in Sy.NO.625/1/A1 within three years the decree holders will be jointly entitled for land measuring 1 acre in the said survey

number. As far as above terms and conditions are concerned there is no dispute.

15) It is the case of the decree holders that the judgment debtors 1 and 2 have failed to develop the land into layout/plots and hand over possession of their respective plots to the decree holders. On the other hand the judgment debtors have contended that the judgment debtors have already developed the lands and handed over possession of their respective plots to decree holders.

16) The order passed by the District Commissioner Kalaburagi on 20.6.2020 shows that land measuring 7 acres 16 guntas in Sy.No.625/1/A1 was converted for non agricultural purpose. The Layout approval letter issued by City Development Authority Sedam dated 5.1.2022 shows that the layout was approved. The layout plan is also produced. The NA order dated 20.6.2020 passed by the Deputy Commissioner, Kalaburagi shows that land measuring 10 acres 10 guntas in Sy.No.611/6 was converted for Non agricultural purpose. The layout approval letter dated 18.11.2020 shows that layout was approved. The Layout plan is annexed to the said approval letter. The above documents disclose that lands in both the survey numbers are already converted for non agricultural purpose for judgment debtors 1 and 2.

17) The Development Agreement dated 7.3.2017

shows that the judgment debtors 1 and two others entered into development agreement with one Rajendra Prasad and Syed Azeem.

18) The E-Khata extracts show that E-Khata extract was issued in the name of judgment debtor No.1 in respect of two plots developed in Sy.No.625/1/A1. The same shows that land in Sy.No.625/1/A1 is fully developed.

19) The Undertaking affidavit dated 20.9.2024 filed by the judgment debtor No.1 in this petition shows that due to Covid-19 Pandemic he could not develop the land in Sy.No.611/6 and he undertook to develop the land into layout within six months and thereafter within one year Khata extract will be issued by the authority. Finally he undertook to complete the development work within 18 months from 20.9.2024. This undertaking affidavit itself more than sufficient to come to a conclusion that land in Sy.No.611/6 is not yet fully developed.

20) The judgment debtors 1 and 2 have produced copies of certain agreements of sale, wherein the decree holders herein allegedly agreed to sell the plots of their shares to third parties. The decree holders have disputed the genuineness of the said documents. Therefore, this court makes it clear that the genuineness of the said agreements is not subject matter of this petition and the same is not concerned to the judgment debtors. Therefore

the judgment debtors cannot take any advantage of the said agreements of sale allegedly executed by some of the decree holders. It is for the decree holders and the agreement holders to get resolve the issues amicably by way of settlement or through process of the court and the judgment debtors have no role to play in this regard.

21) The judgment debtors have also produced registered sale deed and contended that on behalf of the decree holders they sold plots of decree holders to third parties and the respective decree holders received sale consideration amount. At this stage itself this court makes it clear that the manner, mode and genuineness of these transactions is also not the subject matter of this petition. Therefore, it is open to the decree holders and judgment debtors to get settle the said issue amicably or through due process of law.

22) The judgment debtors 1 and 2 have stated that due to Covid-19 Pandemic and change in position of law as to requirement of the land to the tune of 70% instead of 40% the delay was caused. Therefore, he has filed undertaking affidavits on 20.9.2024 and undertook to develop the land in Sy.No.611/6 within 18 months. Therefore, this court looking to the reasons assigned for the delay and the undertaking find it just and proper to allot 10 months time to judgment debtors 1 and 2 to develop the land in Sy.No.611/6 into

layout/plots and hand over possession of 20 plots each to the decree holders and to get the E-khata extracts in the name of decree holders in the TMC, Sedam, failing which the decree holders will be entitled for land to an extent 2 acres each in the land in Sy.No.611/6 as agreed in the compromise petition and also they will be entitled for compensation amount of Rs.30 lakhs each from the judgment debtors 1 and 2. The judgment debtors 1 and 2 shall hand over possession of plots with E-Khata extract in the name of decree holders within 10 months from today, failing which they shall pay compensation to the tune of Rs.30,00,000/- each to the decree holders and the decree holders will be entitled to execute the decree in OS No.77/2018 and also to get compensation of Rs.30,00,000/- from the judgment debtors 1 and 2. It is on record that the decree holders are facing financial crisis and they are having health issues. Therefore, this court find it just and proper to order the judgment debtors 1 and 2 to pay Rs.30,00,000/- each to the decree holders as hand loan without interest till handing over of possession of the plots in Sy.No.611/6 to decree holders .

23) In view of the above discussion it becomes clear that the judgment debtors 1 and 2 have already developed land in Sy.No.625/1/A1. But the judgment debtors have not produced any documents to show that they have handed over possession of the two plots each allotted to the decree

holders as agreed in the compromise petition. Therefore, this court find it just and proper to direct the judgment debtors 1 and 2 to hand over possession of two plots each to the decree holders in Sy.No.625/1/A1 with E-Khata extracts of the said plots in the name of the decree holders within one month from today, failing which the judgment debtors shall give three plots each instead of two plots each to the decree holders in Sy.No.625/1/A1. Hence, I answer above point accordingly.

24) **POINT No.2**: For the foregoing reasons, the following:

### **ORDER**

The application filed by the judgment debtors U/s.151 of CPC is hereby partly allowed, however time limit to develop the lands is extended for 10 months from today with the following terms and conditions.

The judgment debtors 1 and 2 shall hand over possession of plots with E-Khata extracts in Sy.No.611/6 in the name of decree holders within 10 months from today, failing which they shall pay compensation to the tune of Rs.30,00,000/- each to the decree holders and the decree holders will be entitled to execute the decree in OS No.77/2018 and also to get compensation of Rs.30,00,000/- from the judgment debtors 1 and 2.

The judgment debtors 1 and 2 to pay Rs.30,00,000/- each to the decree holders as hand loan without interest till handing over of possession of the plots in Sy.No.611/6 to decree holders. They shall pay the said amount within one month from today in the open court, failing which they will not be entitled for extension of 10 months time granted by this order and the decree holders will be at liberty to execute the decree in OS No.77/2018. After receipt of possession of the plots with E-Khata extracts in their names the decree holders shall return the said hand loan amount of Rs.30,00,000/- to the judgment debtors 1 and 2 without any interest.

The judgment debtors 1 and 2 to hand over possession of two plots each to the decree holders in Sy.No.625/1/A1 with E-Khata extracts of the said plots in the name of the decree holders within one month from today, failing which the judgment debtors shall give three plots each instead of two plots each to the decree holders in Sy.No.625/1/A1.

It is open to the Developers viz Rajendra Prasad and Syed Azeem to carry out development work as per the terms and conditions of the Development agreement

said to be entered by them with the judgment debtors.

(Dictated to the Stenographer directly on computer, the same revised, corrected and pronounced in the open court on this the **16<sup>th</sup> day of April 2025.**)

(SAGAR GURUGOUDA PATIL)  
Senior Civil Judge & JMFC, Sedam.

