

Order below Exh.51 in Spl.Dkst. No.3/2020

By this application JD No.3 has requested to stop the sale proceedings and accept Rs.5 Lacs towards part satisfaction of decree, on the grounds mentioned in the application. The contents of application in short are:- That the DH has filed present execution petition for recovery of money. That this Court has passed order of sale by proclamation of the property belonging to judgment debtors which is mortgage with the DH society. Today, is the third bid for the attached property. However, judgment debtors have preferred appeal with the appellate authority against the judgment passed by Co-operative Court, Shrirampur in ABN No.249/2019. Vide order dated 18/12/2023 in appeal No.59/2023, the Appellate Court directed judgment debtors to deposit Rs.2,20,214/- with DH on or before 29/02/2024. It was further directed that after depositing the said amount, the order passed in ABN No.249/2019 will be set aside.

2. However, because of financial constraints the judgment debtors could not comply with the order passed in Appeal No.59/2023. The judgment debtors have also preferred MA No.58/2026 in the Appellate Court and have claimed the relief of injunction against the said proceeding. The said relief claimed by judgment debtors is rejected and the judgment debtors have preferred Writ Petition before Hon'ble Bombay High Court, Bench at Aurangabad. In case, if the property is sold in the auction then the judgment debtors will be forced to face several litigations. That the judgment debtors are depositing a cheque of Rs.5 Lacs dated 28/04/2026 and undertakes to pay the balance amount to DH at the earliest. Hence, the application.

3. DH filed its say at **Exh.54** and raised strong objections. The contents of its say in short are:- That the application is not legal and the reasons mentioned in the application are incorrect. The judgment debtors obtained loan of Rs.10 Lacs from DH on 20/12/2016 and mortgaged their property with the DH. That the judgment debtors are financially sound and they have intentionally committed default towards payment of loan amount. That notices are also served upon judgment debtors and they have also failed to obey the order passed in Appeal No.59/2023. The application bearing

M.A.No.58/2023 preferred by judgment debtors for postponement of sale is also rejected by the Appellate authority.

4. That the judgment debtors are misusing the provisions of law and as on today amount of Rs.14,85,958/- + expenses incurred for self proclamation is due towards judgment debtors. That the amount due towards judgment debtors belongs to the members of DH society and it is to be treated as public money. That even today judgment debtors are trying to prolong the payment of amount due towards them. In today's bid the bidder is ready to pay Rs.30 Lacs and out of this amount the DH society will recover its outstanding amount. Hence, requested to reject the application.

5. Perused application and say. Heard both the sides. Both of them have submitted in the line of their application and say respectively. Record shows that DH has filed present execution petition on 04/01/2020 for recovery of Rs.10,38,443/-. The certified copy of judgment in ABN No.249/2019 is filed by DH at list below **Exh.3/3** and it shows that by order dated 10/10/2019 the judgment debtors were directed to pay Rs.9,20,214/- along with 15% interest for per three months. Record further shows that warrant for attachment of movable properties belonging to judgment debtors were issued on several occasions but it returned unserved.

6. Thereafter, DH moved an application at **Exh.13** for attachment of immovable property belonging to JD No.1 and inspite of service of notice JD No.1 failed to appear. Accordingly, the property belonging to JD No.1 came to be attached and the relevant documents disclosing the attachment are annexed with the warrant at **Exh.26**. Record further shows that DH then moved an application at **Exh.26** under Order XXI Rule 66, which came to be allowed by order dated 01/04/2023.

7. From the record it can be revealed that the judgment debtors are very well aware regarding every step taken by DH to recover its outstanding amount. Despite this, no efforts were taken by them to pay the outstanding amount. The judgment debtors have themselves contended in the application that they failed to pay the amount of Rs.2,20,214/- ordered by Appellate Authority in Appeal No.59/2023. Besides, their MA No.58/2026 also came to be rejected by order dated

18/04/2026. The conduct of judgment debtors clearly shows that they are intentionally avoiding to pay the loan amount of DH due towards them. Even today, the cheque of Rs.5 Lacs is issued towards 28/04/2026. It is pertinent to note that the order of sale by proclamation is passed on 23/03/2026 at **Exh.47**. Had there been any *bonafides* on the part of judgment debtors then they could have deposited this amount of Rs.5 Lacs after 23/03/2026 and before 23/04/2026. They failed to do so and it seems that they are misusing the provisions of law to prolong the execution petition. The judgment debtors deserves no sympathy from this Court. In the result, I pass following order:-

ORDER

1. Application is rejected.
2. No order as to costs.

Date : 24/04/2026

(Ashish B. Marlecha)
Civil Judge Senior Division,
Shrirampur, Dist. A.Nagar.