

Order below Exh.61 in Spl. Dkt. No.06/2014
(Maharshi Nagari Sah. Patsanstha X Pramod Tungar)

1. The Judgment debtor has filed this application under Order XXI Rule 26 of Civil Procedure Code for stay of the execution of decree on the ground of filing of RCS No.148/2025 by the daughter of Judgment Debtor No. 1 before the Court for partition and possession of the decretal property.

2. The Judgment Debtor, in support of the application has submitted that due to the filing of the RCS No.148/2025 by his daughter for partition and possession of the decretal property, there is likelihood of conflict of outcome of the said case with the present execution, therefore the execution of the decree deserves to be stayed, till the decision of RCS No. 148/2025.

3. The decree holder vide its say at Exh.63 opposed the application by contending that the decretal property has already been attached by the Court in the execution of the present decree. The decretal property needs to be auctioned in furtherance of execution of decree for realizing its fruits. The filing of RCS No.148/2025 by the daughter of judgment debtor is inconsequential and it is a collusive suit filed for the purpose of frustrating the present execution. The judgment debtor is trying to obstruct the present execution and in an attempt to stall the further execution, the present application is filed. Accordingly, it prayed for its dismissal.

4. Order XXI Rule 26 of CPC provides provision for stay of the decree to enable the judgment debtor to apply to the appellate court against the passing of the said decree. In the present case, the judgment debtor is trying to stay the execution on the ground of filing

of RCS No.148/2025. Such ground is not covered by the provisions of Order XXI Rule 26 of the Civil Procedure Code. Even otherwise also there is no justifiable ground to stay the execution. Mere filing of the suit by third party cannot be a ground to stay the execution. Consequently, the application is not legally tenable and liable to be dismissed. Accordingly I proceed to pass the following order:-

ORDER

1. Application Exh.61 stands rejected.
2. Costs in cause.

Date : 21/08/2025.

(R.B.Giri)
Civil Judge, Senior Division
Shrirampur.