

MHAH170029462017



**ORDER BELOW APPLICATION AT EXHIBIT 30**

1. By present application the third-party objector, namely Sheikh Dastagir Budhan, seeking his impleadment as a party to the present execution proceedings and praying for permission to file an objection/written statement on record.

2. It is the case of the objector that he holds a valid right, title, and interest in the property involved in the present execution proceedings. The objector contends that the Decree Holder obtained the decree in Regular Civil Suit No. 250 of 2012 by suppressing material facts, and therefore, the said decree is not binding upon him.

3. The objector asserts that he purchased a portion of the land bearing Gat No. 313/1, admeasuring 40 R, via a registered Sale Deed bearing No. 6153/2012, dated 27th December 2012. He further submits that his name has been duly mutated in the 7/12 extract, which differs from the revenue records that existed at the time of the institution of the suit. Consequently, he contends that if he is not impleaded in the present proceedings, he will suffer irreparable loss. On these grounds, he prays that the application be allowed.

4. Per contra, the Decree Holder has strongly opposed the application by Say at Ex 34, submitting that the contents of the application are false, incorrect, and legally untenable. It is argued that

the objector lacks the legal authority to file the present application and that the same is barred by the law of limitation, having been filed with an ulterior motive to stall the execution. The Decree Holder submits that Regular Civil Suit No. 250 of 2012 was instituted for the removal of an encroachment and for a perpetual injunction. In that suit, it was established that the defendants had encroached upon 10 to 15 Gunthas of the plaintiff's land on the eastern side. Despite being duly served, Defendant Nos. 1 to 7 remained absent, and the matter proceeded. Following a Court Commissioner's measurement, an encroachment of 13 Gunthas was definitively found, leading to the passing of the decree for the recovery of possession. The Decree Holder contends that the objector is a *pendente lite* purchaser and therefore has no locus standi to obstruct the execution.

5. I have heard the rival submissions and carefully perused the record. The record reveals that the Decree Holder instituted Regular Civil Suit No. 250 of 2012 on 18th February 2012. Subsequently, a judgment and decree were passed in favor of the Decree Holder on 4th February 2017. A perusal of the registered Sale Deed No. 6153/2012 relied upon by the objector clearly shows that it was executed on 27th December 2012 by Defendant Nos. 6 and 7 in favor of the objector.

6. This chronological sequence undisputedly establishes that the subject property was alienated by the defendants during the active pendency of the civil suit. As the transaction took place during the pendency of the litigation, it is squarely hit by the doctrine of *lis*

*pendens* as embodied in Section 52 of the Transfer of Property Act, 1882. It is a well-settled principle of law that any alienation of property during the pendency of a suit does not affect the rights of the plaintiff, and a *pendente lite* purchaser steps into the shoes of the judgment debtors. Consequently, the decree passed against the alienating defendants is absolutely binding upon the present objector.

7. Furthermore, the conduct of the objector does not inspire the confidence of this Court. Although the Sale Deed was executed in December 2012, the objector took no steps to mutate his name in the revenue records for nearly five years. The mutation entry No. 9181 produced by the objector reflects that he applied for mutation on 6th February 2017 suspiciously, just two days after the decree was passed on 4th February 2017. This timeline clearly indicates that the objector did not approach the authorities with clean hands and that the mutation was a calculated afterthought aimed at frustrating the decree.

8. Additionally, the record of the present execution proceedings reflects that a measurement was conducted by the Court Commissioner on 26th February 2024. The Panchnama and the measurement map prepared by the independent authority clearly show that the present objector was not in physical possession of the encroached portion at the time of measurement; rather, Defendant Nos. 6 and 7 were found in possession.

9. In light of the aforesaid observations, it is evident that the objector is a transferee *pendente lite*. Therefore, his objection to the execution of the decree is legally untenable, devoid of merit, and is merely a dilatory tactic adopted to frustrate the fruits of the decree obtained by the Decree Holder. The application deserves to be rejected at the threshold. Hence, I pass the following order:

**ORDER**

1. The application at Exhibit 30 is hereby rejected.
2. The execution proceedings shall proceed in accordance with the law.

Place:- Rahata  
Date :- 17/03/2026

(Santosh R. Bharad)  
**2<sup>nd</sup> Jt. C.J.J.D., Rahata**