

MHAU070000602002



Reg. Dkst. No. 9/2002  
Shaikh Habib Shaikh Chand  
Vs  
Kalyan Vithal Kanade

**ORDER BELOW EXH. 1**

It is seen from the record that the present case is pending for compliance of order passed below exh. 109 dt. 06.12.2006. It is also seen from the record that DH has challenged the said order before Hon'ble High Court which came to be rejected by Hon'ble High Court. Therefore, it is necessary to proceed with the matter as per order passed below exh. 109. It is seen from the record that despite of said order DH has moved various applications to execute the decree. The application below Exh. 130 on the same ground came to be rejected on 10.02.2023. Thereafter also it is seen that DH has filed application below exh. 176 on the same ground.

2) It is seen from the order passed below exh. 1 by Predecessor of this Court on 10.02.2023 by taking note of conduct of decree holder. The court observed that objector no. 1 has filed pursis below exh. 127 in respect of handwriting expert as per order passed below exh. 109. The Predecessor of this Court further observed that DH has told that he has no objection to send document filed at exh. 88 as per order passed below exh. 109.

3) Again on 12.02.2024, the Predecessor of this Court noted the conduct of Decree Holder below exh. 1. The Court noted that, *"DH is present along with his Ld. Advocate and family members. DH very arrogantly submitted that his execution be dismissed. He is*

*suffering from B.P and Sugar. He has further submitted that he will commit suicide. This is happened in open court. This is second time the DH has behaved like this. His conduct appears to be very irrelevant and it appears that he is using pressure tactics. It appears that the matter was pending due to his non-compliance as per order below exh. 109. Hence, the conduct of DH is noted."*

4) It is seen from the record that DH has filed pursis at exh. 171 on 11.09.2023 contending that there is no need to send the document to handwriting expert. It is necessary to mention here that once the order is passed below exh. 109 and the appeal/Writ Petition filed by DH against said order is rejected, then he has no voice to tell the court what to do and what not to do. It is seen from the record itself and conduct of decree holder as per note dt. 10.02.2023 and 12.02.2024 below Exh. 1 that decree holder is only interested to prolong the matter. On one hand, as per note taken below exh. 1 dt. 10.02.2023, DH has no objection to send the document to any handwriting expert, on the other hand, by filing pursis below exh. 171 he resisted the order passed below exh. 109.

5) Again on 16.01.2026 DH and his advocate are present before the Court. Ld. Advocate for DH has argued in respect of detention of respondent no. 1 and 2 in jail. He has not argued in respect of order passed below exh. 109. When Court questioned him about the same he replied that he has no objection to send the document at exh. 88 to any handwriting expert. Therefore, it is seen from the conduct of decree holder himself that he has not stick up to any one stand. He is changing his stand frequently.

6) As stated above, objector no. 1 already filed pursis below exh. 127 as a compliance of order passed below exh. 109. Therefore, considering above all facts and circumstances of the present case, it is just and proper to send the document filed at exh. 88 to Government Handwriting Expert as per Order passed below exh. 109. Therefore, it is directed to objector petitioner Rustam Gore to comply necessary formalities for sending the document to handwriting expert within 15 days. Failure to comply with said order results in vacation of order passed below exh. 109 dt. 06.12.2006. DH, his advocate and objector and their advocate are directed to take a note of this order. It is further clarified that is they failed to take note of said order, they will not be heard on any ground in respect of said order.

Date : 04.02.2026

(A. A. Kalamkar)  
3<sup>rd</sup> Jt. Civil Judge (J.D.)  
Gangapur.

## CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original Order.

Name of the Stenographer : R. S. Bhange  
Court : Shri. A. A. Kalamkar,  
3<sup>rd</sup> Jt. Civil Judge J.D., &  
J.M.F.C. Gangapur.  
Date of order : 04.02.2026  
Order signed by the presiding : 04.02.2026  
officer on  
Order uploaded on : 04.02.2026