

R.D.No.5/2021.
Mahadev Vs. Naseeb & oths.,

ORDER BELOW EXH-38.

1. Perused the application and documents on record.
2. Heard the argument of learned advocate of decree holder.
3. The decree holder filed the present application to issue possession warrant of the suit property. Decree holder filed the certified copy at (Exh-4/2) of decree passed in R.C.S.No.20/2012. The Court has directed judgment debtor to handover the possession of the suit property within two months from the date of judgment i.e. from 13.06.2013. Thereafter, the decree holder filed the application for the execution of decree. The notice is duly served to the judgment debtor but judgment debtor nos.1 to 3 have not appeared before the Court. Therefore, the Court passed exparte order against them. The said order is set aside subject to the cost of Rs.500/- however, the said cost is not paid by the judgment debtor. Decree holder filed application for issuing possession warrant at Exh-6. However, baillif filed report to the effect that, surveyor is necessary to measure the decretal land (suit land in R.C.S.No.20/2012) and at the time of execution of possession warrant boundaries of the decretal land was not fixed by surveyor therefore, possession warrant returned unserved. Thereafter, decree holder filed the application at Exh-13 to carry out the survey of the suit land. The said application was allowed by the Court and surveyor filed its report at Exh-36. As surveyor shown decretal land along with the requirement which is necessary to execute the possession warrant, there is no hurdle to issue possession warrant of decretal land. The learned advocate of judgment debtor before two dates back, made oral submission about the problem in execution of possession warrant however, they have not appeared later on and filed any application in respect of their submission. Considering all these facts, I pass following order : -

ORDER

- 1.** Issue possession warrant as per Order 21 Rule 35 of Civil Procedure Code for delivery of possession for decretal land (suit property in R.C.S.No.20.2012) to the decree holder.
- 2.** The bailiff to handover possession of decretal portion as per survey map and decree.
- 3.** It is also directed to the bailiff to take the assistance of the surveyor of T.I.L.R. office to execute the possession warrant.
- 4.** Compliance report be submitted in the Court on or before next date along with punchanama.
- 5.** Decree holder to pay the necessary expenses which he is entitled to recovered from judgment debtor.

Sillod.
Date - 03.04.2024.

V. A. Jadhav.
2nd Jt. C.J.J.Division Sillod.

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 Court	:-	2 nd Jt.C.J.J.Division Sillod.
Name of the Stenographer	:-	K. P. Patil.
Date of order	:-	03.04.2024.
Order signed by the P.O on	:-	03.04.2024.
Order digitally signed on	:-	04.04.2024.
Order uploaded on CIS	:-	04.04.2024.

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