

MHAU100002502020



Reg Dkst/1/2020

**Hamiduddin Hafiz Qamaruddin
Vs. Mujiboddin Hafiz Qamroddin**

ORDER BELOW EXH-08

The decree holder has filed application to issue possession over as per final decree on 20.12.2021. On said application is called on the same date till date say have not been filed the judgment debtor. Therefore, this application is being decided without say and hearing of judgment debtor.

02. It is contended in the application that he has filed application to make preliminary decree be final decree and in the said application the Court commissioner has been appointed and the Court commissioner has filed his report. Therefore, according to said report final decree has been passed.

03. It is further submitted that as per the final decree directed the concerned belief to put the parties in their possession. Hence, prayed to allow the application.

04. Perused the application, say and record of case. Heard learned advocate of the decree holder, judgment debtor called absent. From perusal of record it shows that the decree holder have filed suit for partition of suit property. Wherein the suit is decreed. Thereafter R.D.No.60/2009 is filed to finalize the preliminary decree. The Court has passed order on 16.10.2019 below Exh.01 and allowed the said execution proceeding. In the said order it is observed that final decree shall be drawn in terms of report of Court Commissioner Exh.103. It is further observed that Court Commissioner report shall be part and parcel of final decree and the proceeding is closed.

04. Learned advocate of the decree holder submitted that the judgment debtor have not challenged the preliminary decree and there is no stay order in the present proceeding of Hon'ble District Court. He further argued that the Court has already finalized the decree only the physical possession is require to be given to the respective parties as per the final decree.

05. Since, filing of the present application on 20.12.2021 the judgment debtor neither filed say nor brought on record any contrary view stating that the present proceeding is stayed. Sufficient time is given to the judgment debtor. Therefore, considering these observations it is necessary to issue possession warrant as per the final decree. Hence, considering above facts and circumstances discussed in this proceeding, I pass following order.

ORDER

1. The application is allowed.
2. The concern belief is directed to hand over the possession of suit property to respective parties as per final decree.
3. The concern belief is further directed to file the report accordingly within one month.

Date- 17.02.2026.

(G. D. Gurnule)
Jt. Civil Judge Jr. Div.
Khulatabad.