

MHAU130000042023



Reg Dkst/1/2023

**Zainuddin @ Pashu S/o Mohammad Shafi Vs. Municipal Corporation,
Aurangabad**

ORDER BELOW EXH. 31

By this application, the D.H. sought to execute a decree for an injunction by detention of Judgment Debtors in civil prisons and by attachment of their property in a manner provided by Order 21 Rule 32 (1) of the Code of Civil Procedure, 1908. The J.D. No.2 has filed its reply to this application at Exh.40 and denied the fact of breach of a Judgment and Decree passed in RCS No.345/1998. This Court has also heard the rival parties on this application. However, in absence of evidence present application cannot be decided. Therefore, it is necessary to give an opportunity of adducing evidence to the rival parties. Hence, I pass following order.

ORDER

The petition be posted for evidence.

Date :-28.01.2025.

(Shri. N.H. Tikhe)
Civil Judge Senior Division
(Corporation Court), Aurangabad.



Reg Dkst/1/2023

Zainuddin @ Pashu S/o Mohammad Shafi Vs. Municipal Corporation,
Aurangabad

ORDER BELOW EXH. 41

By this application, the D.H. sought to prevent J.D. No.2 from carrying out construction on the property forming subject matter of this execution proceeding. Read the application and reply of J.D. No.2 at Exh.45. Heard Ld. Advocates for the rival parties.

2. Ld. Advocate for the D.H. argued that the J.D. No.2 is trying to construct heavy gate on the suit property in breach of a Judgment and decree passed in RCS No.345/1998. This act on the part of J.D. No.2 is contemptuous. Therefore, it is necessary to prevent J.D. No.2 from such construction and to direct it to obey the Judgment and Decree passed in RCS No.345/1998.

3. Ld. Advocate for J.D. No.2 argued that, the construction of all compound is being carried out by it as per the construction permission. The D.H. is willfully obstructing it from carrying out construction. There is no breach of a Judgment and Decree passed in RCS No.345/1998 on its part. Present application is not maintainable, therefore, it is necessary to reject it.

4. It is to be noted that the D.H. has a decree of perpetual injunction in his favour i.e. not to obstruct to his possession over suit property without due process of law. Present is an execution proceeding of said decree. Thus, the relief sought by D.H. in present application is already

secured by him by a Judgment and Decree in RCS No.345/1998. In such circumstances, there is no need to pass similar order again for the relief sought in present application. Hence, the application needs to be rejected. Therefore, I pass the following order.

ORDER

Application stands rejected.

Date :-28.01.2025.

(Shri. N.H. Tikhe)
Civil Judge Senior Division
(Corporation Court), Aurangabad.

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	: S.V. Shinde
Court	: C.J.S.D.(Corporation Court), Aurangabad
Date	: 28.01.2025.
Order signed by the presiding officer on	: 28.01.2025.
Order uploaded on	: 28.01.2025.