

Darkhast No.74/2025

Quazi Ziauddin Quazi Firoz Ali & othrs.
V/s.
State Thro. Collector, Buldhana & othrs.

ORDER BELOW EXH.22

The Decree Holder has filed application under Order XXI, Rule 35 read with section 151 of the Code of Civil Procedure.

2. It is submitted by the Ld. Advocate for the decree-holder that the Hon'ble Court passed decree in Special Civil Suit No.30/2019 on 15/03/2025. Decree-holder and judgment-debtor No.4 and 5 are declared as owner of the suit property. The judgment-debtor No.1 and 2 are ordered to handover possession of the suit property to the decree-holder. The suit property is in the possession of the judgment-debtor No.2 and he is served with notice under Order XXI, Rule 22 of C.P.C. However, he did not comply order as per decree. Therefore, he prayed that the court Bailiff be directed to affix the copy of the warrant in some conspicuous place on the property and proclaiming by beats of drum or other customary mode, at some convenient place or remove or open any lock or break open any door and put decree holder in possession. Therefore, he prayed to issue possession warrant against judgment-debtor No.2 along with above direction.

3. It is submitted by the Ld. Advocate judgment-debtor No.2 that he has filed appeal against the order and decree passed in Spl.C.S. No.30/2019. Thus, the appeal is pending therefore, he prayed not to issue possession warrant. He also submitted that the judgment-debtor No.4 is not served with notice. Therefore, possession warrant cannot be issued.

4. Perused application. Heard both Ld. Advocates for

Decree Holder and judgment-debtor.

5. Record shows that as per documents filed by judgment-debtor, it reveals that the judgment-debtor No.2 has filed appeal against the decree in Spl.C.S. No.30/2019. However, there is no stay to the present execution proceeding. Also it appears that the judgment-debtor No.4 is co-owner of the property. Therefore, no prejudice will be caused even if the notice was not served to the judgment-debtor No.4. Also the record shows that the suit property is in the possession of the judgment-debtor No.2. Record also shows that as per order below Exh.7, possession warrant was issued against judgment-debtor No.2 regarding the suit property. However, the report filed by the Bailiff shows that the possession warrant was not properly served to the judgment-debtor No.2. Considering above facts, it will be in the interest of justice to re-issue possession warrant against judgment-debtor No.2. Accordingly, I pass following order.

ORDER

1. Application at Exh.22 is partly allowed.
2. Re-issue possession warrant against judgment-debtor No.2 as per rules regarding the suit property described in the suit property.
3. Decree holder is directed to take step for service of notice to the judgment-debtor No.4.

Date : 20/04/2026

(T. S. Gaigole)
Civil Judge Senior Division,
Mehkar.

Darkhast No.74/2025 (0)
Quazi Ziauddin & ots. Vs. Collector & ots.

CERTIFICATE

I affirm that the contents of this P.D.F. file order is same, word to word, as per the original order.	
Name of the Stenographer Grade II	Balkrishna M. Shilwant.
Court	Civil Judge Senior Division, Mehkar.
Date	20/04/2026
Order signed by the presiding officer on	20/04/2026
Order uploaded on	20/04/2026