

**Namdeo Vs. Abid Hussain and others**

MHGA110000252013



IN THE COURT OF CIVIL JUDGE JUNIOR  
DIVISION, KURKHEDA  
(Presided Over by N.P. Deshpande)

**R.D. No. 01/2013**

**Decree Holder :- Namdeo Jayram Mankar,**  
Age: 58 Yrs, Occupation: Retired Teacher,  
R/o Kurkheda, Ta. Kurkheda, Dist. Gadchiroli.

**-VERSUS-**

**Judgement Debtor:-**

- 1. Aabid Husen Nijam Husen Sayyad (died),**  
**1 (a) Nyaj Aabid Husen Sayyad,**  
Age: 38 Yrs, Occupation: Nil,  
R/o Kurkheda, Ta. Kurkheda,  
Dist. Gadchiroli.
- 1(b) Shiba Tarnnum Aijaj Khan,**  
Age: 27 Yrs, Occupation: Nil,  
R/o Kamlanagar, Ta. Desiaganj,  
Dist. Gadchiroli.
- 1(c) Yetesham Aabid Husen Sayyad,**  
Age: 21 Yrs, Occupation: Nil,  
R/o Kurkheda, Ta. Kurkheda,  
Dist. Gadchiroli.
- 1(d) Javed Hussain Abid Hussain Sayyad,**  
Age: 45 Yrs, Occupation: Nil,  
R/o Kamlanagar, Ta. Desiaganj,  
Dist. Gadchiroli.
- 1(e) Faujiya Abid Hussain Sayyad,**  
Age: 42 Yrs, Occupation: Nil,  
R/o Juni Wadsa, Ta. Desaiaganj,  
Dist. Gadchiroli.
- 2. Nafizjaha Aabid Husen Sayyad,**  
Age: 49 Yrs, Occupation: Household,

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R/o Kurkheda, Ta. Kurkheda,  
Dist. Gadchiroli.

**3. Grampanchayat Kurkheda,**

Through Sarpanch Grampanchayat Kurkheda,  
Ta. Kurkheda, Dist. Gadchiroli.

**4. Shivnath Jayram Mankar,**

R/o Khedegaon, Ta. Kurkheda,  
Dist. Gadchiroli.

**5. Ramesh Jayram Mankar,**

R/o Kurkheda, Ta. Kurkheda,  
Dist. Gadchiroli.

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Ld. Advocate M. T. Saudagar– for the Judgment Debtor  
Ld. Advocate Buddhé– for the Decree Holder

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**Order below Exh-26**

Present application is filed by the decree holder to issue possession warrant against judgment debtors under warrant Order 21 Rule 35 of the Civil Procedure Code and to give police aid of one male and one female police official.

2. As per the application judgment debtors have filed Second Appeal No. 239/2011 before Hon'ble High Court of Bombay Judicature at Bombay, Nagpur Bench, Nagpur and as per order of the Hon'ble High Court dated 28.06.2024, Hon'ble High Court has pleased to confirm the orders of this Court in R.C.S. No. 12/2009 dated 23.02.2012 and order of the Hon'ble Principal District Court in First Appeal No.08/2012 dated 17.01.2018. As per the application suit was filed by the decree holder for possession of the decreetal property i.e. house property and open space situated at Ambedkar Ward, Kurkheda bearing House Property No.33,

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City Servey No. 93/3(old) and New Servey No.204 Sheet No.5 having 4 rooms house and varanda admeasuring 52 x 48 sq. feet which is bounded at the East- road and thereafter house of one Sadashiv Uikey, at West- House of one Hira sheth, at the North- road and thereafter House of one Sadashiv Uikey and at the South- House of decree holder. Therefore, decree holder prayed to issue possession warrant under Order 21 Rule 35 of the Code of Civil Procedure against judgment debtors no.1(a) to 1(c) and 2 and to give police aid.

3. As per order dated 08.08.2024 show cause notice was issued to the judgment debtors for filling their say. However, they did not file say on the present application. Record shows that after appearance of Judgment Debtors No.2 and legal heirs of deceased Judgment Debtors No.1 i.e. Judgment Debtors Nos.1(a) to 1(e), they filed death certificate of deceased judgment debtor no.1 Aabid Husen Nijam Husen Sayyad who died on 13.07.2020 and objected that other legal heirs are not joined in the present execution petition. Therefore, as per directions of this Court decree holder has joined all his legal heirs i.e. 1(a) to 1(e). However specifically all the judgment debotors failed to file the say on the present application. Therefore, application is proceeded without their say as the execution petition is more than 10 years old pending from 2013.

4. Heard learned advocate P. N. Buddhhe appearing for decree holder. Learned advocate M. T. Saudagar appearing for Judgment Debtor No.1(a) to 1(c) and 2 are

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absent. Application is proceeded ex-parte against Judgment Debtor No.1(d) and 1(e).

5. Record shows that as per judgment in R.C.S. 12/2009 dated 23.02.2012 suit of the decree holder was partly decreed and original Judgment Debtor No. 1 and 2 were directed to give the vacant possession of the decreetal property within 3 months. Therefore, deceased Judgment Debtor No.1 and his wife Judgment Debtor No.2 file Regular Civil Appeal No. 8/2012 before Hon'ble Principal District Court, Gadchiroli and Hon'ble District Court pleased to dismiss the appeal filed by the judgment debtors. Thereafter, deceased Judgment Debtor No.1 filed Second Appeal No.239/2018 before Hon'ble High Court of Judicature at Bombay Nagpur Bench Nagpur. His Lordship of Hon'ble High Court of judicature at Bombay Nagpur Bench, Nagpur pleased to dismiss the Second Appeal filed by the judgment debtors by order dated 28.06.2024 imposing cost of Rs.5000/- upon them.

6. Thus, possession of the decreetal property is to be given to the decree holder as per the judgment and decree of this Court in R.C.S. no.12/20009 dated 23.02.2012. The decree holder is waiting more than 13 years for the fruits of the decree. Thus, the decree of this Court is confirmed by the Hon'ble District Court in First Appeal no.8/2012 vide its order dated 17.01.2018 and by the Hon'ble High Court Bench at Nagpur in its Second Appeal no.239/2018 vide order dated 28.06.2024. Hence, I pass following order:

**ORDER**

1. Application Exh.26 is partly allowed.
2. Issue possession warrant against judgment debtor no.1 (a) Nyaj Aabid Husen Sayyad, judgment debtor no.1(b) Shiba Tarnnum Aijaj Khan1, judgment debtor no.1(c) Yetesham Aabid Husen Sayyad, judgment debtor no.1(d) Javed Hussain Abid Hussain Sayyad, judgment debtor no.1(e) Faujiya Abid Hussain Sayyad as per Order- 21 Rule- 35 of Code of Civil Procedure for the possession of the decreetal property i.e. House Property and open space situated at Ambedkar Ward, Kurkheda bearing House Property No.33, city servey no. 93/3(old) and new servey no.204 sheet no.5 having 4 rooms house, varanda admeasuring 52 x 48 sq. Feet which is bounded at the east road and thereafter house of one Sadashiv Uikey, at west house of one Hira sheth of the north road and thereafter house of one Sadashiv Uikey and at the south house of decree holder.
3. The Police Station Officer Kurkheda is hereby directed to give police aid for the execution of the possession warrant against judgment debtors by depositing police aid of one male and one female police official by depositing their one day salary and allowances directly in the police station.
4. Issue letter to official incharge of Police Station Kurkheda accordingly to give police aid.
5. Decree holder is directed to take further steps for the recovery of remaining costs amount of Rs.5000/- against

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judgment debtors.

Date: 09.09.2025

(N.P. Deshpande)  
Civil Judge Jr. Division,  
Kurkheda.