

Common Order Below Exh.63 and 64 In Reg. Dar. No.18/2012
[Hiralal X Tukaram & oth.]

The present application filed by the Decree Holder to reissue possession warrant and the police protection at the time of execution.

Brief facts of the applications are as under:

02. Possession warrant against the judgment debtors already issued by this court. But, as per bailiff report at the time of execution the judgment debtors refused to deliver vacant possession and also destroyed boundary marks, therefore, the possession warrant returned back unserved. Therefore, it is necessary to reissue possession warrant against judgment debtor nos.2 to 13 and 15. Moreover, the judgment debtors have done obstruction to execution proceeding. Hence, it is also necessary to provide police protection while execution. The decree holders are ready to pay allowance as per the directions of this court.

03. The judgment debtor have filed their say at overleaf, it is contended that, the decree holders have obtained possession warrant. But, the judgment debtors have constructed R.C.C. buildings under the Government scheme Indira Awas Yojana since the year 1981. The judgment debtors are constructed their houses on Government land. Therefore, the re-measurement of the suit property is necessary. Therefore, they prayed to reject the applications.

04. I have heard the argument raised by advocate for decree holders and judgment debtors for sufficient length.

05. My learned predecessor issued possession warrant on 10.03.2021 against the judgment debtors. As per the bailiff report below Exh.45, it is clear that, the judgment debtors have obstructed

execution proceeding. After perusal of all record it reveals that, there is no stay order against this execution petition. The judgment debtors have preferred second appeal on the said decree. But, said appeal no.820/2018 is the disposed off by Hon'ble Bombay High Court, Bench at Aurangabad. Therefore, on mere oral submission of the judgment debtors the execution proceeding cannot be stopped. On perusal of the bailiff report it is clear that, the judgment debtors have not delivered vacant possession of the suit property as per the decree. Hence, in purpose of the execution of the decree and considering need of the matter it is necessary to provide police protection for the ends of justice. Hence, I pass following order.

-: ORDER :-

1. Applications at Exh.63 and 65 are allowed.
2. Issue possession warrant in respect of the suit property vide Order XXI Rule 35(3) of The Code of Civil Procedure, 1908 as per decree of Regular Civil Suit No.10/2003.
3. Police station Paradh directed to provide one male constable and one lady constable as a assistant for two days after payment of the allowance done by the decree holders.

Sd/-

(Smt. R. V. Patil)

Civil Judge Junior Division,
Bhokardan.

Date:- 27.03.2024.

CERTIFICATE

I affirm that the contents of this PDF file are word to word as per original Judgment/Order.

Name of Steno :- U. R. Dasare,

Name of Court :- Civil & Criminal Court, Bhokardan.

Date :- 28.03.2024.

Sd/-

Signature of Steno