

Common Order Below Exh.71, 72 and 73 In Reg. Dar. No.18/2012
[Hiralal X Tukaram & oth.]

The present applications filed by the Decree Holder to reissue possession warrant, police protection and appointment of surveyor 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, 15 and appointment of Taluka Inspector Land Records, Bhokardan to fix the boundaries as per the measurement done on 27.06.1995. 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 which is returned unserved. On perusal of said report, it is clear that, the boundary marks have not been found and four boundaries of the suit property are not correct. Therefore, the suit property is necessary to be remeasured. The said judgment debtors were not present at the time of measurement. They have also not served with the measurement map. 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. Thereafter, I have reissue possession warrant on 27.03.2024. As per the bailiff report below Exh.69, it is clear that, the judgment debtors have obstructed execution proceeding. It has mentioned that, to fix the boundaries appointment of surveyor is necessary. It is submitted by the judgment debtors that re-measurement of the suit property is necessary. The decree holder has filed copy of the measurement map on record. After perusal of all record it reveals that, the judgment debtors have preferred second appeal on the said decree. But, said appeal no.820/2018 is disposed off by Hon'ble Bombay High Court, Bench at Aurangabad. In this case the measurement done on 27.06.1995 is binding on the parties which is part of the decree. On mere submission of judgment debtors the order of re-measurement cannot be passed. 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. Therefore, in purpose of the execution of the decree and considering need of the matter it is necessary to reissue possession warrant, to appoint Taluka Inspector Land Records, Bhokardan to fix the boundaries as per the measurement map dated 27.06.1995 and to provide police protection for the ends of justice. Hence, I pass following order.

:- ORDER :-

1. Applications at Exh.71, 72 and 73 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. Taluka Inspector Land Records, Bhokardan is directed to remain present at the time of execution for the fixation of boundaries as per

the measurement done on 27.06.1995 after payment of the allowance done by the decree holder.

4. 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:- 29.07.2024.

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 :- 29.07.2024.

Sd/-

Signature of Steno