

ORDER BELOW EXHIBIT NO. 18 IN
M.A.C.P. DARKHAST NO.72/2016
[CNR NO :- MHKO010016042016]

The D.H./applicant has moved this application seeking the attachment and sale of properties belonging to J.D./opponent for the recovery of amount awarded by MACT, Kolhapur in MACP No.408/2011. The J.D./opponent Chandrakant has filed his say at Exh.15 and resisted this application on the ground that the properties are his self acquired properties and he is not representing the estate of deceased Pradip who was his son. The opponent No.1(c) and (d) have filed their say at Exh.24 and resisted this application.

02. Today the opponent Chandrakant has filed pursis at Exh.27 and intimated that till decision of this proceeding he shall not dispose of the property.

03. The aforesaid situation shows that the properties Gat No.140 and 338 of village Kasba Kapasi are standing in the name of opponent Chandrakant. It is duty of the opponent Chandrakant to produce on record the evidence i.e. sale deed or other title transfer document, to show that these properties are his self acquired properties. Mere contention is not sufficient in view of relation between deceased opponent and present opponent Chandrakant. It is worthy to note that, during the course of MACP proceeding the original opponent Pradip died and these opponents are impleaded in that proceeding as representative of deceased

Pradip. Such plea is not raised by these opponents before Trial Court. The court has not only awarded the compensation by passing order against these opponents but also held jointly and severally liability to the opponents including the present opponent Chandrakant. It is settled position that the DH has sweet choice to execute the decree against anyone of the JDs or against all of them. The executing court cannot go beyond the Award. Therefore, the opponent is liable to pay the amount of Award.

04. The plea of opponent Chandrakant as to the properties are his self acquired properties and because of that, he is not liable to pay the amount, is sufficient to hold that the opponents are trying to avoid the payment of compensation. In such circumstances, there is no alternative than to attach the properties Gat No.140 and 338 of village Kasba Kapasi and to sell it for satisfaction of recovery of amount of Award. Thus, I pass the following order.

ORDER

- 1) The application is allowed as under.
- 2) The properties Gat Nos.140 and 338 of village Kasba Kapasi are hereby attached in connection of execution of Award in MACP No.408/2011 and the opponents are hereby prohibited from transferring or charging the properties in any way.
- 3) The opponents shall attend the Court on specified date mentioned in notice for taking the notice of the date to be fixed for settling the terms of proclamation of sale.

- 4) Issue proclamation as per Order XXI Rule 2 of the Code of Civil Procedure.
- 5) Inform to Tahsildar, Kagal and Gavkamgar Talathi of village Kasba Kapasi, Tq. Kagal, District Kolhapur about this order.

Sd/-

Date :- 02. 05. 2018.

(B.D.Kulkarni)
Member MACT, Kolhapur.

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	:- Sachin Narayan Salokhe.
Name of Court	:- Shri. B. D. Kulkarni, Member MACT, Kolhapur.
Date of Dictation	:- 02. 05. 2018.
Order signed by the P.O. on	:- 02. 05. 2018.
Order uploaded on	:- 03. 05. 2018.