

MHKO110004152015	<u>ORDER BELOW EXH. 20.</u> <u>in Regular Darkhast No.17/2015</u> <u>Shri.Jaibhavani Urban Co-operative</u> <u>Credit Society Ltd.Pethvadgaon</u> <u>Versus Shri.Mahadev Sidhu Bhosale</u> <u>deceased Lrs. Smt.Vatsla Mahadev</u> <u>Bhosale and another</u>
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Present application is filed by decree holder to attach immovable property of Judgment Debtor No.1 as per Order XXI, Rule 54 of code of Civil Procedure.

02. It is contention of the Decree Holder that as per order passed by co-operative Court in S.C.C.K.No.1204/2005, judgment debtor is ought to pay Rs.4,94,971/- with interest thereon. Accordingly, till 30.09.2022 judgment debtor ought to pay Rs.7,03,404/-. However, they failed to repay the same. Hence, present application.

03. Judgment Debtor No.1(b) and (c) resisted the application by filing the say at Exh.21. They denied contention of the decree holder. It is contention of judgment debtor that they have 1/3rd share each in the Gat No.335. Therefore, said Gat number cannot be attached during execution. Further, deceased Mahadev did not obtain loan for benefit of joint family. Therefore, decree holder has no right to claim amount from the present judgment debtor. Furthermore, they are ready to pay amount of Rs.1,70,000/-. Hence, they prayed to reject the application.

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04. Heard Learned Advocate. Perused record. After perusal of the same it appears that decree passed by the Hon'ble Co-operative Court is still in existence. Judgment debtor did not challenge the same before any appellate Court. Further, as per decree amount is yet to be recovered. Despite sufficient opportunity judgment debtor failed to pay the same. Moreover, it appears that there is no stay by the appellate court to the execution of decree. In this peculiar situation it would be appropriate to allow the application. Accordingly, I pass the following order.

- O R D E R -

1. The application (Exh.20) is allowed.
2. Issue attachment warrant as per Order XXI Rule 54 of code of Civil Procedure.

Date : 17.06.2023

(S.D.Shirsat)
02nd Jt. Civil Judge Jr. Dn.,
Pethvadgaon.