


MHKO140003412020 	Regular Darkhast No.02/2020 Ramu Narayan Gawade Vs. Suresh Narayan Ghabale
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ORDER BELOW EXHIBIT 01**{DATE : 10/07/2025}**

1. The decree holder has filed present application for execution of decree drawn in Regular Civil Suit No.33/2012 and thereby prayed to execute the registered sale deed in favor of decree holder through Court Commissioner. Notices were issued against the judgment debtor. Judgment debtor no.3, 4 & 5 appeared but failed to file their objections. Notice is served but judgment debtor no.2 vide exh.7. It is seen that the notice is issued to judgment debtor no.1 but it is not served. Notice was issued by RPAD. It is also not served. Therefore, notice is issued vide order 5 rule 20 of Code of Civil Procedure. Thereafter, the Learned Advocate for decree holder prayed for appointment of Court Commissioner and submitted the draft sale on record.

2. The copies of drafts sale deed is issued along with notice to be served on the judgment debtors but same is not served. However, notice is also issued in the daily news paper dtd. 06/11/2024 in spite of that the defendants failed to appear before the Court so it is seen that, the defendants have avoided service of notices and draft sale deed. In such situation it would not be proper to keep the matter pending as the judgment debtor remain absent in spite of having knowledge. I have perused the decree drawn in R.C.S.33/2012. It appears that, the plaintiff has filed said suit for specific performance of contract and it is submitted that, he has purchased the suit property vide agreement to sale dtd.

22/06/2007 and at the time of agreement to sale he has paid Rs.1,00,000/- and he agreed to pay the remaining amount of Rs.65,000/- at the time of execution of sale deed. It is submitted that, the defendants or judgment debtors failed to execute the sale deed. Accordingly, the suit is partly decreed and defendants were directed to execute the sale deed within 3 months from date of judgment and accept Rs.65,000/- remaining consideration amount.

3. As discussed above the defendants have failed to appear and raised objection in the present execution petition. However, the decree holder as deposited Rs.65,000/- in the Court. Its receipt no.0997606 is filed on record. The original agreement to sale dtd.22/06/2007 is also filed on record. The decree holder has filed draft copy of sale deed. The Assistant Superintendent of this Court was ordered to verify the draft sale deed enclosed with list 17 and report about the correctness of the description of the suit property and other particulars, vide order dtd.29/04/2025. In spite of sufficient time the Assistant Superintendent of this Court failed to verify the sale deed. Therefore, I have proceeded to pass further order.

4. As discussed above the Regular Civil Suit no.33/2012 is partly decreed and defendants were under obligations to execute the sale deed by accepting remaining consideration amount of Rs.65,000/-. But defendants failed to execute the said sale deed. In such situation, it would be proper to appoint the Assistant Superintendent of this Court as Court Commissioner to execute the sale deed in favor of decree holder. Accordingly, I pass following order.

ORDER

The Assistant Superintendent of this Court is appointed as Court Commissioner to execute the sale deed in favor of decree holder with following direction.

- i) The Assistant Superintendent is directed to verify the draft sale deed about its description of suit property, name of the parties, resident and other particulars as to sale deed.
- ii) After verification of sale deed, the decree holder shall deliver the copy of the draft upon the proper stamp paper if a stamp is required by the law
- iii) The Assistant Superintendent to execute the document i.e. registered sale deed in accordance with law in favor of decree holder regarding the present petition.
- iv) The execution of a document will be in the form as mentioned in the Order 21 Rule 34 sub rule 5 of Code of Civil Procedure.

Chandgad

Date. 10/07/2025

(W. D. Jadhav)

Jt.CJ.J.D. & J.M.F.C.,Chandgad.