

MHLA120008322009**Order below Exh.119**

The present application is filed by the Judgment Debtor (JD) under Section 47 of the Code of Civil Procedure for closing the execution petition, as the decree has been satisfied amicably between the Decree Holder (DH) and the Judgment Debtor.

02. The Judgment Debtor contended that the Decree Holder had filed a suit for recovery of possession in respect of Gat No. 68. Thereafter, the Decree Holder filed an execution petition for obtaining possession of the land of 38 R as per the decree. During the pendency of the execution petition, a joint measurement of Gat No. 68 was carried out, and it was found that the land recoverable from the Judgment Debtor was a different portion, which made execution of the decree very difficult. Subsequently, an amicable settlement took place between the Judgment Debtor and the Decree Holder in the presence of respectable persons of the village. These panchas, along with a private expert, measured Gat No. 68, and the common bandh between the lands of the plaintiff and the defendants was fixed. Boundary stones were fixed, and the land of the Decree Holder was found to be on the southern side as per revenue records. It was agreed between both parties that the pending R.D. No. 30/2009, in view of the settlement, was to be withdrawn.

03. As per the terms of the compromise, a compromise deed was executed on a stamp paper of Rs. 100/- and signed by both the Judgment Debtor and the Decree Holder on 15/06/2024. The said document is enclosed with the present application. Therefore, no dispute remains between the Decree Holder and the Judgment Debtor, and the decree in question stands satisfied. No question of delivery of possession remains. Further, another joint measurement carried out in the pending civil suit has specifically found that neither party has encroached upon the land of the other. Hence, the present execution petition stands satisfied due to the compromise arrived at between the parties. Therefore, the Judgment Debtor prayed that the execution petition be kindly closed by recording satisfaction of the decree by way of amicable settlement dated 15/06/2024.

04. The Decree Holder filed his say on the backleaf of the same application and contended that the application is not tenable in the eyes of law. The Judgment Debtor is trying to prolong the matter, and the alleged agreement between the parties appears to be false. Upon perusal of the agreement, it is evident that the signature of the Decree Holder differs from his signature on the vakalatnama. The Decree Holder, Sunil, has specifically denied the said compromise. It is contended that the compromise deed filed by the Judgment Debtor is false and fabricated. It is further contended that the scope of Section 47 of the CPC is limited to issues relating to execution, discharge, or satisfaction of the decree only in case of ambiguity, and therefore, the present application is not maintainable. Hence, the

application deserves to be rejected with costs of Rs. 50,000/- for causing delay in execution.

05. Heard learned Advocate Shri U. S. Jadhav for the Judgment Debtor and learned Advocate Shri Javalgekar for the Decree Holder.

06. The application, say and record have been perused. It appears that the present execution petition is filed for execution of the decree passed in R.C.S. No. 85/1982. By the said decree, possession of 38 gunthas of land from Survey No. 20 was ordered to be delivered to the Decree Holder (DH) from Judgment Debtor (JD) No.1 and others. The First Appeal No. 92/1998 was also rejected on 09/02/1999, thereby confirming the decree passed in R.C.S. No. 85/1982.

07. At the time of arguments, learned Advocate U.S. Jadhav for the JD submitted that during the pendency of the present execution, measurement of Survey No. 20 was carried out 2 to 3 times and the reports showed different portions in the possession of the JDs. It was further submitted that Survey No. 20 was subsequently converted into three new Gat Numbers, namely Gat Nos. 66, 67, and 68. Therefore, decree is not executable. From the record and measurement reports, it is revealed that Survey No. 20 was measured 2 to 3 times and the reports show different land in possession of the JDs. However, repeatedly the Bailiff's reports show that the execution could not be completed due to objections raised by the JDs.

08. on the contrary. Learned Advocate Shri Javalgekar for the DH submitted that, as per the order below Exh.81, the Hon'ble Court had directed the TILR to measure the entire Survey No. 20 at Gaur and to separate 2H 42R land from Gat No. 68 and hand over possession to the legal representatives of the DH. This shows that the executing court has already decided the said issue.

09. As per Section 47 of the Code of Civil Procedure, the executing court is required to decide all questions relating to execution, discharge, or satisfaction of the decree. The decree in R.C.S. No. 85/1982 has already decided that the encroached portion measuring 38 R was in possession of the JDs, which was confirmed by the First Appellate Court. As per Section 47, once the possession of the DH is confirmed by the Hon'ble High Court, it is not permissible for the executing court to re-adjudicate the question of possession afresh when the JD was already a party to the suit. In spite of that for the satisfaction of decree already issue of possession was decided.

10. Further, the JD submitted that on 15/06/2024, on a stamp paper of Rs.100/-, the execution petition was compromised between the JD and the DH, and that both parties have signed the same. Therefore, according to the JD, the present execution stands satisfied as compromised. In support of his contention, the JD filed the alleged compromise deed along with a list at Exh.118. Upon perusal of the said document, it appears that it was executed between Dagadu Ram Arerao, original JD No.1/2, and Sunil

Vishwanath Arerao, DH No.1/2. It further appears that land Gat No. 68 was measured, a common bandh was fixed, and the dispute between the parties was stated to have come to an end. It is also mentioned therein that R.C.S. No. 369/2016 and R.D. No. 30/2009 were to be withdrawn.

11. On the contrary, DH Sunil specifically denied his signature on the said compromise deed. During arguments, it was submitted that as per Section 73 of the Indian Evidence Act, the Court can compare signatures. After perusal and comparison of the signatures of Sunil, it appears that the signature on the compromise deed at Exh.118 and the signatures of the DH on the Vakalatnama at Exh.116 and application at Exh.62 are different. Therefore, the JD has failed to prove the alleged compromise deed. Moreover, the alleged compromise appears to have been executed only between DH No.1/2 and JD No.1/2. The question regarding the remaining DHs and JDs remains unanswered.

12. Thereafter, the JD filed an application at Exh.115 on the same grounds for closing the execution petition, which was rejected on 06/10/2025. Upon perusal of the record, it reveals that the JD is attempting, by hook or by crook, to delay the execution proceedings by filing multiple frivolous applications. The JD has repeatedly filed applications on the same grounds and with the same prayer; therefore, the present application is hit by the principle of constructive res judicata. The present application filed by the JDs clearly shows their intention to delay the execution proceedings and deprive the DH of the fruits of the decree. The decree dates back to

the year 1982, and now it is 2026. If the decree is not executed even today, it would amount to depriving the decree holder of the fruits of the decree for more than four decades. The present R.D. is of the year 2009. As per the directions of the Hon'ble High Court, the decree was required to be executed within six months from the date of filing. Due to such frivolous applications, the DH has been deprived of enjoying the fruits of the decree. Therefore, considering the long delay and from the above discussion, the application is devoid of merits and is liable to be dismissed. Hence, the following order is passed:-

ORDER

01.	The application is rejected.
02.	LR's of JD is directed to handover possession to LR's of DH as per decree.

Place: Nilanga.
Date-19.01.2026

(Smt. K. P. Gade)
Judicial Magistrate First Class,
(Court No.2) Nilanga