

Regular Darkhast no. 22/2022

Laxmibai Vs. Gundu

**ORDER BELOW EXH. 40**

**CNR No.MHLA140031902022**

The present execution proceeding is for recovery of possession on the basis of decree passed in R.C.S. no. 357/1981. The application has been filed for re-issuing possession warrant against J.D.No.1. Perused the application. J.D.No.1 failed to file his say inspite of sufficient opportunity. J.D. No.1 fail to filed any stay order R.C.A. No. 94/2022. Heard.

2. Perused the record. My learned predecessor decreed R.C.S. no. 357/1981 and directed defendant (J.D. No.1) to deliever possession of survey no. 115/K, ad-measuring acres 03.06 Guntha situated at. Village Killari Tq. Ausa within 60 days from the date of order. The judgment is of dated 01/09/2022. The judgement debter failed to give vacant possession of the suit property. Therefore, the decree holder filed the present execution proceeding.

3. J.D. No.1 failed to file his say. J.D. No. 1 filed appeal against the judgment in R.C.S. No. 357/1981. However, inspite of ample opportunity he failed to file any stay order. My learned predecessor issued possession warrant under Order 21 Rule 35 vide order passed below Exh. 27. However, the warrant was not

executed. There is no stay against order of possession warrant. Therefore, it is necessary to reissue possession warrant against J.D. no. 1 according to the decree. There is no decree against J.D. no. 2. Decree holder prayed for police protection at the time of execution. Considering his apprehension it is necessary to grant police protection as prayed. Hence, the following order,

**ORDER**

1. Re-issue possession warrant against J.D. no. 1 and 3 under Order XXI Rule 35 of the Code of Civil Procedure.
2. Police station officer, Killari police station shall provide police protection subject to payment of fees by D.H. as and when asked by him.

Ausa  
Date : 10/05/2024

(P. D. Kolekar)  
Jt.Civil Judge, J.D., AUSA