

**Regular Darkhast no. 22/2022
Laxmibai Vs. Gundu**

ORDER BELOW EXH. 81
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. Perused the application. J.D. failed to file his say inspite of sufficient opportunity. The J.D. fails to file any say on the present application.

2. Perused the record. My learned predecessor decreed R.C.S. no. 357/1981 and directed to original defendant (J.D. No.1) to deliver 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 judgment debtor failed to give vacant possession of the suit property. Therefore, the decree holder filed the present execution proceeding and prayed to re-issuing possession warrant as per Exh.27 and Exh.40.

3. J.D. failed to file his say. Hence, application is proceeded without their say.

4. My learned predecessor issued possession warrant under Order 21 Rule 35 vide order passed below Exh. 27 and Exh.40. However, the warrant was not executed. Thereafter, D.H. had filed application vide Exh.79. Nonetheless, due to

defects, he has not pressed the Exh.79. Therefore, directions given below Exh. 79 turned ineffective. Similarly, there is no stay order by Hon'ble Apex Court to the instant proceeding. Therefore, in the interest of justice, it is necessary to reissue possession warrant against J.D. according to the decree. The 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. 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.
3. Issue writ of order to the T.I.L.R. AUSA and directed to be present alongwith necessary record of survey No. 115/K ad-measuring 03 Acre 06 Guntha on day of execution proceeding.
4. The D. H. is directed to pay necessary fees and charges of T.I.L.R. AUSA as per procedure.
5. Issue notice to concern court commissioner and surveyor as per procedure.

AUSA
Date : 15/02/2025

(Shri. Awate P. P.)
Jt. Civil Judge, J.D., AUSA.