

ORDER BELOW EXH. 112 IN R.D. NO. 50/2010
(Chandrakant vs. The Collector and others)

The decree holder appeared and filed this application for police protection in order to execute possession warrant Exh. 111.

2. The judgment debtors remained absent. Heard learned advocate for decree holder Shri A.M. Bilolikar. He submitted at Bar that as per order of the Court possession warrant issued vide Exh. 111 under Order XXI rule 35 (3) of CPC. However, while executing the warrant through the Bailiff Shri B. R. Gaikwad judgment debtor nos. 6 to 33 resisted for execution of warrant. The concerned bailiff also submitted his report along-with the possession warrant Exh. 111. Hence, the Superintendent of police Nanded be directed to grant police protection during execution of possession warrant by appointing two ladies police constables, two men constables and one P.S.I. officials at the cost of the decree-holder.

3. Considering, aforesaid submission upon record and proceeding it shows that the said execution petition is pending since long back. From the report of possession warrant. It shows from the report of bailiff Shri B.R. Gaikwad that on 18.01.2018 he along-with decree-holder had been in the suit property for execution of possession warrant at that time judgment debtor nos. 6 to 33 were present on the spot and they opposed for taking possession of the suit premises. There were so many houses situated on the spot. In this circumstances, the warrant could not executed upon the judgment debtors.

4. The fact narrated by the bailiff and on going through the decree in RCS No.78/2004, it shows that my learned predecessor passed final order thus :-

“अंतिम आदेश

१. वादीचा दावा खर्चासह मान्य करण्यात येत आहे.
२. वादी क्र. १ श्री. चंद्रकांत हणमंतराव माने हे गट क्र. ११२ मौ. पिंपळगांव, नायगांव खै. जि. नांदेड १ हे. ४१ आर व आकार ३.८१ रू. चे मालक आहेत असे जाहिर करण्यात येत आहे.
३. असे जाहिर करण्यांत येत आहे की, इंदिरा आवास योजनेअंतर्गत प्रतिवादी क्र. १ ते ३ यांनी प्रतिवादी क्र. ६ ते १३ यांना वाटप केलेले भूखंड बेकायदेशिरपणे दिले व ते कृत्य नियमबाह्य आहे.
४. प्रतिवादी क्र. १ ते ३३ यांनी गट क्र. ११२ वरील ५१ आर अतिक्रमीत जमीनीवरील ३३X३३ फुटाचा भूखंड आणि त्यावरील घर आणि २०X२५ फुटाचे भूखंड व त्यावरील झोपड्या व तीन शेड ही सर्व मोकळी करून देउन सदर ५१ आर जमीनीचा खुला ताबा वादींना द्यावा.
५. वादी यांची मोबदल्या स्वरूपात प्रतिवर्षी रूपये दहा हजारची मागणी नामंजूर करण्यात येत आहे.
६. वादीच्या दाव्याचा खर्च प्रतिवादी क्र. १ ते ५ यांनी द्यावा.
७. वरील प्रमाणे हुकूमनामा करण्यात यावा.”

5. It shows from the order on the decree in RCS No. 78/2004 dated 21.07.2008 the plaintiff declared as owner of land

admeasuring 1 H 40 R land out of block no. 112 situated in Pimpalgaon, Tq. Naigaon, Dist. Nanded. It also directed that defendant nos. 1 to 33 handover possession of encroached area of 51 R out of block no. 112. Thereafter, this execution petition came to be filed by decree-holder for possession of the encroached area. The Court has issued possession warrant in due process of Law. The said warrant resisted by judgment debtor nos. 6 to 33 on the ground that the government allotted the houses to them i.e. government scheme of 'Indira Awas Yojana.' It clear that my learned predecessor directed that to remove the construction of houses on the disputed encroached area and put the decree-holders in possession of the encroached area. However, judgment debtor nos. 6 to 33 never appeared before the Court and opposed the execution of possession of in such circumstances, it is just and proper to provide police protection to the decree-holder as well as the warrant serving officers i.e. bailiff while executing the possession warrant. As the decree holder is ready to deposit necessary charges and fees of police protection. In these circumstances, it is just and proper to grand permission for police protection in execution of the possession warrant. Hence, I pass following order :-

ORDER

1. Permission is granted for police protection at the cost of the decree-holder.
2. The Superintendent of Police, Nanded is requested to provide necessary and proper

police protection while executing the
possession warrant.

3. Accordingly, the application is disposed off.
4. Returnable on 09.03.2018.

Date: 14th February 2018.

Sd/-
(Satish B. Hiwale)
Civil Judge S.D.,
Biloli.

