

ORDER BELOW EXH.10

(Passed on 17/04/2025)

The present application is filed by the D.H. for granting police aid for executing the distress warrant/ Jangam warrant for recovery of the decretal amount. Say not filed by the Judgement Debtor.

2. Heard Adv. Pudke for D.H. None appeared on behalf of the legal representative of the Judgment debtor.

3. This execution petition is filed for recovery of the decretal amount ordered as per the judgment and decree passed by Civil Judge Junior Division, Kamptee in Regular Civil Suit No.92/2013. My learned Predecessor already issued attachment warrant as per order 21 rule 30 for recovery of decretal amount. The report of the said warrant is filed by the bailiff below Exh.9. The list of movable articles is filed by the judgment debtor along with Exh.8. According to the report of the bailiff below Exh.9, the amount was not recovered and warrant was not executed due to obstruction by the son and daughter-in-law of the Judgment debtor. Therefore this application is filed by the decree holder. This application is filed on 08.04.2022. Thereafter as judgment debtor was died, his legal representatives are taken on record accordingly. They filed objection below Exh.18 for recovery of the amount as per the decree. My learned predecessor by passing order below Exh.18 on 26.04.2024 rejected the objections.

4. Adv. Shri. Pudke for the decree holder submitted that the judgment debtor was the Proprietor of Dilip Kirana Stores and after his demise, his legal representatives are become the owner of Dilip Kirana

Stores. Therefore prior to issuing warrant of attachment of immovable property, he submitted that warrant for attachment of movable property of the judgment debtor.

5. Judgment debtor has not filed any document to show that the Dilip Kirana Stores is not in existence after the demise of Dilip. On the contrary, decree holder has filed property card on record which shows that the property is inherited by the legal heirs of the judgment debtor after his demise. In such circumstances, as per Section 50 of CPC. As the property of the Judgment debtor is inherited by his legal heirs, attachment of the movables as per the list attached along with recovery warrant Exh.9 can be issued.

6. It is the submission of the advocate for the decree holder that the son and daughter-in-law of the judgment debtor obstructed the execution. Therefore there needs police aid for the execution of the warrant. This submission is supported by the report of bailiff filed below Exh.9 which specifically shows that there was obstruction for the execution of the attachment warrant. Considering the report of the bailiff filed below Exh.9, it shows that there requires police aid with the bailiff for execution of the warrant of attachment of movable property of which the list is filed along with application Exh.8 and the report Exh.9. Hence, considering these circumstances, I pass following order.

- ORDER -

- 1] The application (Exh.10) is allowed.
- 2] D.H. is allowed to take the police aid while execution of the attachment warrant of movable property of which the list is filed along with Exh.8.

- 3] The Police Inspector, P Gittikhadan Police Station, Nagpur is hereby directed to provide one male and one female constable at the time of execution of the attachment warrant along with bailiff.
- 4] Bailiffs are directed to inform the date of attachment to the Gittikhadan Police Station, Nagpur in writing.
- 5] D.H. is directed to deposit the necessary fees with the Gittikhadan Police Station, Nagpur for the police aid within 8 days.
- 6] Copy of this order be sent to Police Inspector, Gittikhadan Police Station, Nagpur.
- 7] Bailiff is further directed to inform the date of the execution of the attachment warrant prior to 2 days to the Gittikhadan Police Station, Nagpur and get the police aid.
- 8] If at the time of execution of the recovery warrant, it is found to the bailiff that the property is kept in locked position then he is further directed to break open the locks by taking the aid of lock breaker at the cost of decree holder.
- 9] Bailiff is further directed to video-graph the whole procedure of breaking open the locks and prepare the detailed panchnama of total procedure of the execution of the warrant.

Kamptee

Date : 17/04/2025.

(Mohan R. Kamat)
Civil Judge, Junior Division,
Kamptee.