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Reg. D. No. 14/2014

Chimanrav Bhilaji Jadhav

Vs.

Abhiman Devram Aher (Deceased)

LR's Bharati Abhiman Aher & Ors.

Order Below Exh.16

The present application is filed by the D.H. seeking attachment of immovebale property of the J. D. The D.H. Contends that the suit R. C. S. No. 28/2012 filed by him was partly allowed and the defendant (J.D.) was directed to return amount Rs. 1,70,000/- to the plaintiff (D.H.) within three months at 6% rate of interest. The defendant (J.D.) failed to return the said amount. Hence, he has filed the present Execution Petition seeking recovery of amount Rs. 2,72,434/- including interest. However, the J.Ds have appeared in the present matter, however they have not returned the said amount. Hence, the present application is filed for attachment and sale of J.D's southern side 0 H. 15 R. area of Gat No. 556/4 situated at village Nivane, Tal. Kalwan, Dist. Nashik more partitularly described as follows.

To the East : Area of Gat no. 556/4 belonging to Dinesh Aher

To the West :- Agricultural land of Bhausahab Ahire

To the South :- Remaining area of this Gat No.

To the North :- Property of Dinesh Shamrav

2. Despite giving sufficient opportunity, the J.D. failed to file say on the present application, hence no say order was passed against the J.D. by my Ld. Predecessor on 19/7/2016.

3. Perused the application and heard Ld. Adv. for the D.H. On perusal of the record it appears that warrant under order 21 Rule 43

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for attachment of movable property of the J.D. was issued. As per report Exh. 20, the said warrant could not be executed as no movable property worth the amount mentioned in the warrant was available in the house of J.D. The present Execution Petition is for recovery of amount. Warrant for attachment of movable property could not be executed. In such circumstances, it is necessary to attach immovable property of J.D. to recover the said amount. 7X12 extract of Gat No. 556/4 is on record at Exh. 23. Name of J.D. appears in the holders column of the said 7x12 extract to the extent of 0.15 R. As per mandat of Order 21 Rule 54 (1-A), notice needs to be issued to the J.D. before passing order in respect of sale of immovable property. Hence, I pass the following order :

ORDER

1. Immovable property of the J.D. i.e. southern side 0 H. 15 R. area of Gat No. 556/4 situated at village Nivane, Tal. Kalwan, Dist. Nashik more partitularly described as follows:

To the East : Area of Gat no. 556/4 belonging to Dinesh Aher

To the West :- Agricultural land of Bhausahab Ahire

To the South :- Remaining area of this Gat No.

To the North :- Property of Dinesh Shamrav

be attached as prayed.

2. The J.D. is prohibited from transferring or charging the said immovable property in any way and all persons from taking any benefit from such transfer or charge.
3. The J.D. shall appear before the court on 27/4/2021 to take notice of the date to be fixed for settling the terms of the proclamation of the sale.

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4. Copies of the present order shall be forwarded to the Collector Dist. Nashik with the request that appropriate entries showing the attachment levied on the property may be caused to be made in the revenue records, city survey records or village panchayat records as may be required.
5. The order be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the Court-house, and also in the office of the Collector Nashik and also in the office of the Gram Panchayat, village Nivane.

Date : 16.3.2021
Place : Kalwan

(A. C. Joshi)
Jt. Civil Judge J. D., Kalwan