

MHOS130000031997



R.D.No.29 /1997
Anubai/Kalyan

Order Below Exh.1

The decree holder filed present execution petition for the execution of judgment and decree passed in R.C.S.No.93/1991. The D.H. produced the draft of sale-deed at Exh.225. The J.D. noted the draft by filing their say below Exh.226. It is seen from the record of present execution petition that, the J.D. moved application below Exh.197, 199, 202, 228, 230 and 231 on the point of objection. However, the said applications came to be decided. The third party applicant also moved objection below Exh.55 and Exh.218 in present execution petition. Both these applications came to be decided. The present execution petition is pending for the execution of sale-deed. The D.H. paid the consideration amount in the court.

2. The objection of J.D. below Exh.226 has no merit because all the objections of J.D. decided on merit. The J.D. objected on the ground that sale-deed in respect of suit property is executed. The Section 52 of Transfer of Property Act 1882 is specific on the point of transfer during pendency of suit. The sale-deed executed after institution of R.C.S.No.93/1991 has no value due to attraction of Section 52 of T.P.Act. The draft of sale-deed below Exh.225 is approved by the D.H. The present execution petition is pending since more than 20 years for its execution of judgment and decree passed in R.C.S.No.93/1991. Today, the J.D. absent. In such circumstances, to proceed with the execution petition appointment of court commissioner is necessary. Otherwise it become mere persecution of

decree holder. The objection of J.D. on the point of that the present execution petition is not tenable. But, it is seen from record the decree passed in R.C.S.No.93/1991 is intact. As per objection of J.D. at Exh.24 and Exh.25 about pendency of appeal against decree passed in R.C.S.No.93/1991 no such document on record in execution petition about pendency of appeal if any or decree is set aside. The Asst. Superintendent(I) of this Court is hereby appointed as a Court Commissioner to execute sale-deed as per decree passed in R.C.S.No.93/1991. The direction to the concerned for execution of sale-deed within 15 days from today is required to be given because of oldness of execution petition. The J.D. have not paid the costs which came to be imposed upon them in the execution petition till today. I proceed to pass following order.

ORDER

1. The draft of sale-deed at Exh.225 is approved by decree holder.
2. The decree holder shall deliver to the court a copy of draft sale-deed as per Exh.225 upon proper stamp paper in the prescribed form.
3. Assistant Superintendent(I) of this court is hereby appointed as Court Commissioner to execute sale-deed as per decree in favour of decree holder within 15 days from today.
4. The Court Commissioner shall cause the sale-deed to be executed in accordance with law.
5. The decree holder shall bear the expenses of registration of sale-deed.
6. The decree holder shall also deposit an amount of Rs.2,000/- (Rs.Two thousand only) towards the court commissions fees.
7. The decree holder do comply the aforesaid order in accordance with law and do needful.

Date : 10.02.2022

(K. K. Khomane)
Jt.Civil Judge,J.D. Bhoom.

C E R T I F I C A T E

I affirm that, the contents of this P.D.F. file Judgment are same, word to word, as per the original Judgment.

Name of Stenographer	:-	M.K.Shinde
Court	:-	Jt.C.J.J.D., Bhoom, Dist. Osmanabad.
Date	:-	10.02.2022
Order signed by the Presiding officer on	:-	10.02.2022
Order uploaded on	:-	11.02.2022