

ORDER BELOW EX.26
(Passed On 28th January 2025)

1. This is an application for cancellation of recovery warrant of Rs. 73,918/- issued against judgment debtor.

2. Perused the application and read the reply. I have heard Mr. P.D. Shinde learned counsel for decree holders /claimants and Mr. A.S. Kulkarni learned A.G.P for respondent /judgment debtor.

3. Mr. Kulkarni learned A.G.P for respondent /judgment debtor submitted that proposal is already sent for challenging the Judgment in LAR No. 103/1984 and judgment debtor is inclined to challenge the said Judgment. Mr. Kulkarni submitted that request letter for granting the decretal/award amount is already sent to Collector by respondent and respondent is ready to pay the due amount to decree holders / claimants as soon as grant is received from Collector. Mr. Kulkarni submitted in consonance to his application and prayed to allow the instant application by canceling recovery warrant of Rs. 73,918/- issued against judgment debtor.

4. Mr. Shinde learned counsel for decree holders/ claimants vehemently opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Shinde learned counsel for decree holders/claimants submitted that decree holders/claimants

have filed present execution proceeding against respondent /judgment debtor. Mr. Shinde submitted that judgment debtor has not challenged the Judgment in LAR No. 103/1984. Mr. Shinde submitted judgment debtor is deliberately trying to delay the present matter for avoiding making any sort of payments to decree holders. Mr. Shinde submitted that already decree holders have lost their land and they would suffer irreparable loss if payment of award in terms of decree is not made to them. Mr. Shinde submitted that there is no provision for cancellation of recovery warrant and respondent ought to have challenge the order passed on Ex. 24 but that has not been done so. Mr. Shinde submitted that present application is filed with ulterior motive just to harass. Mr. Shinde submitted in consonance to his reply and prayed to out rightly reject it with heavy cost.

5. On perusal of record with eagly eyes it reveals that there is no stay to the present proceedings. The decree holders are entitled for getting the fruits of decree from judgment debtor since award passed in LAR No. 103/1984 is in their favour. It seems judgment debtor is killing time and deliberately trying to prolong the matter for one reasons or the other. On the basis of arguments of rival sides, I am of the opinion that instant application needs to be rejected out rightly. In the result, I am inclined to pass following order.

ORDER

The application at Ex. 26 stands rejected.

Place:- Kallam

Date:- 28/01/2025

(N. A Ingley)
Civil Judge Senior Division
Kallam

CERTIFICATE

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

Name of Stenographer	-	S.R. Kale Stenographer (Grade-II)
Court	-	Civil Court, Senior Division, Kallam.
Date	-	28-01-2025
Order signed by the Presiding Officer on	-	28-01-2025
Order uploaded on	-	29-01-2025