

ORDER BELOW EXH.47 IN Special Darkhast NO. 10/2020

1. This application is filed by Judgment-debtor no.2 stating that, the order passed below **Exh.20** be amended and J.D. no.2 be permitted to withdraw the amount from the account maintained with D.C.B. Bank Branch Dongri and the order of freezing the account of J.D. no.2 be set aside. J.D. No.2 submitted that he intends to deposit amount of Rs.2,43,082/- immediately in the court but as the order passed below **Exh.20** he cannot withdraw more than Rs.25,000/- from his account. Hence, prayed that the order of freezing the account be released and he be permitted to deposit the amount.

2. Decree-holder resisted this application and filed his reply at **Exh.52**. He contended that he has no objection for J.D. no.2 to deposit amount in the court. Further J.D. no.2 be directed to deposit amount of Rs.2,43,082/- with the account for D.H. maintained with Union Bank of India Branch Karjat. Hence, prayed that the application for defreezing the account be rejected.

3. Considering rival contentions of both the parties following points arise for my determination and I record my findings thereon for the reasons mentioned below.

No.	POINTS	FINDINGS
1	Whether application is liable to be allowed ?	...No.
2	What Order ?	... Application is rejected.

:: REASONS ::

POINT NO.1. :-

4. Heard both the learned Advocates. Perused the record. This is the Execution Petition filed by D.H. for execution of decree passed in

Spl.C.S.No.114/2018. By this decree defendants are directed to pay outstanding amount of Rs.22,95,652/- along with interest @ 9.7 % from the date of application. During the pendency of petition D.H. has filed application at **Exh.20** for attaching Bank account of J.D. My predecessor allowed the said application and directed the Branch Manager of respective Bank not to allow J.D. for withdrawing amount more than Rs.25,000/- J.D. no.2 has filed application at **Exh.38** seeking permission to deposit an amount of Rs.2,43,082/- in the court. The said application was allowed and J.D. no.2 was permitted to deposit amount in the court towards the decree.

5. Now vide this application J.D. no.2 intends to modify order passed below **Exh.20** thereby directing the Bank Manager to allow J.D. to withdraw amount from his account and also has prayed for removing the limit of withdrawal. Here it is pertinent to note that, an amount of Rs.22,95,652-02 along with interest @ 9.7% is decreed against J.D. no.1 and 2. Under the garb of depositing an amount of Rs.2,43,082/- J.D. no.2 is trying to remove attachment order, which cannot be allowed. The order passed below **Exh.20** needs no modification. J.D. no.2 is at liberty to deposit amount of Rs.2,43,082/- but the prayer of modification of order and directing the Branch Manager of DCB Bank to allow the J.D. to withdraw the amount cannot be granted. Thus, in view of my above discussion, I answer point no.1 in the negative and in answer to point no.2, I pass the following order.

:: ORDER ::

Application stands rejected.

Panvel,
Date : 19-10-2023.

(Nayomi P. Pawar)
Civil Judge, Senior Division Panvel.