

Common order below Exh.16, 18, 25 in Special Darkhast No. 10/2020

1. Application **Exh.16** is filed by Decree-holder for directing the Judgment-debtors to furnish Affidavit stating the particulars of their Assets and means of satisfying the decree. Till date, Judgment-debtors have not filed their say nor they have obeyed the order of this Court to furnish Affidavit stating the particulars of Assets, dated 09-03-2022.
2. Application **Exh.18** was filed by Decree-holder stating that as Judgment-debtor have not complied the order of decree passed in S.C.S. No.114/2018 dated 06-11-2019, hence, they be kept in civil prison till they comply the order. Show cause notice was issued to Judgment-debtor no.1 and 2 as to why they should not be detained in civil prison under Order 21 Rule 37 of the Code of Civil Procedure on 20-10-2022 below **Exh.18**.
3. Application **Exh.25** is filed by Decree-holder under Order 21 Rule 41(3) for detaining the Judgment-debtors in jail as they have failed to comply the order below **Exh.20** as per Order 21 Rule 41(2) of the Code of Civil Procedure. My predecessor issued show cause notice to Judgment-debtor on 30-06-2022 as to why they should not be detained in civil prison.
4. After that Judgment-debtor no.2 filed an application at **Exh.38** seeking permission to deposit an amount of Rs.2,43,082/- and the said application was allowed on 19-06-2023.
5. Again Judgment-debtor no.2 filed application at **Exh.47** on 06-07-2023 seeking permission to defreeze his account maintained with DCB Bank, Branch Dongri so that he may pay the amount. Said application was rejected on 19-10-2023.
6. It is pertinent to note that, Judgment-debtor no.1 and 2 have not preferred any appeal against the decree passed in S.C.S. No.114/2018

dated 06-11-2019. Till date though Decree-holder is having decree in his favour, he is not able to get fruit of the said decree, because of the adamant behaviour of Judgment-debtor who are not obeying the order of the court as well as decree. Applications **Exh.16 and Exh.18** were filed on 29-09-2021 while application **Exh.25** was filed on 30-06-2022. Show cause notice was issued twice to the Judgment-debtor no.1 and 2. Sufficient time is granted to Judgment-debtor no.1 and 2 to comply the order. Though Judgment-debtor no.2 showed his willingness to pay part amount and he was permitted to pay part amount, but till date, he has not paid any amount.

7. Hence, this shows that, Judgment-debtor no.1 and 2 are deliberately disobeying the order of the court for last four years. Judgment-debtor no.1 and 2 have also not furnished Affidavit regarding the particulars of Assets as per order below **Exh.16** dated 09-03-2022. Hence, in view of my above discussion, I am of the opinion that, J.D. no.1 and 2 have deliberately disobeyed the order of the court and also have not obeyed the decree. I find merits in the said applications. Decree-holder is present in the court. Judgment-debtor no.1 and 2 today are absent in the court. Hence, I am of the opinion that, the applications below **Exh.16, 18 and 25** needs to be allowed. Accordingly I pass the following order.

:: ORDER ::

1. Applications Exh.16, 18 and 25 allowed.
2. Judgment-debtor no.1 Shri. Vidyadhar R. Mishra and Judgment-debtor no.2 Shri. Ramkailash R. Mishra be detained in civil prison for the period of three months, after the payment of subsistence allowance by Decree-holder.
3. After payment of subsistence allowance, Arrest Warrant be issued against Judgment-debtor no.1 and 2.

Panvel,
Date : 23-11-2023.

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

