

ORDER BELOW EXH.22.

Decree holder no.1 & 2 being a original plaintiffs in original suit bearing R.C.S. No.58/2003 have filed Present application for execution of decree passed in that suit on 23.01.2019. As per decree, judgment debtor no.1 & 2, as original defendants therein were directed to remove the southern side cactus compound laid in north-south passage which is situated in subject property belongs to decree holders and to remove four coconut trees planted therein and also to make the right to way obstruction less, however, as judgment debtors have not obeyed the decree, decree holders are constrained to file execution petition.

2. Judgment debtor no.1 appeared and filed pursis at Exh.21 submitting that said way of decree holders are not situated in their property and there is no any trees planted in their property. He also submitted that compound constructed on southern boundary in subject property is situated in property belongs to defendant no.2/1 to 2/3 and therefore, he has not right to remove any trees.

3. After passing the decree, as the defendant no.2 is died, his legal representatives are impleaded in present execution petition as judgment debtor no.2/1 to 2/3. They having been served by notice did not appear to contest the present execution petition so that ex-parte order is passed against them on 01.01.2024. It seems that despite passing decree against them they did not bother to obey the same and therefore decree holders are constrained to knock the door of the Court for execution of decree.

4. As per Order 21 Rule 32(5) of the Code of Civil Procedure, 1908, if judgment debtors failed to act as directed them vide decree, the Court may direct that the required act be performed by the decree holders or any appointed person. As a decree is passed for mandatory injunction directing the judgment debtors for removing obstacles in right to way of decree holders, it will be appropriate to get enforce the same through bailiff. Hence, following order is passed.

ORDER

1. Application is allowed.
2. As per Order 21 Rule 32(5) of the Code of Civil Procedure, 1908 decree be executed by bailiff with assistance of required laborers at the cost of decree holders.
3. Decree holders are at liberty to recover such cost from judgment debtors.
4. Issue writ accordingly.

Date :- 31.01.2026.
Place :- Roha.

(S.V.Khaire)
Civil Judge, Junior Division
Roha.