

MHSN020014972023	<u>REGULAR DARKHAST No.42/2023</u>
	<u>Shiv Majestic Grahnirman Co Op Society Sangli</u> <u>Vs.</u> <u>Ramesh Nivrutti Karnade</u>

ORDER BELOW EXH. No.10
(Passed on 03/03/2025)

This application is filed by the decree holder for issuance of distress warrant of Rs. 1,81,414/- against the judgment debtor under Order 21 Rule 30 of the Code of Civil Procedure (hereinafter referred as “CPC” for short)

2. Read the application. The Judgment debtor is failed to file his say inspite of opportunities given to them. Therefore, the application is proceeded without the say of judgment debtor. Heard the Ld. Advocate for decree holder. Perused the record.

3. It is the contention of decree holders that, they have filed the suit against the defendant/judgment debtor for recovery of common maintenance amount of society. By virtue of judgment the Court has decreed the suit and directed judgment debtor to pay an amount of Rs.1,32,200/- along with interest. However, the judgment debtor did not pay any single rupee till today. Hence, the decree holder filed darkhast petition and prayed to issue possession warrant against the judgment debtor as per Order 21 Rule 30 of C.P.C.

4. Inspite of several opportunities the judgment debtor failed to file say on this application. However, the judgment debtor has filed his say to the main darkhast petition and contended that, his name is 'रमेश निवृत्ती करांडे'. However, the decree is passed against the person namely 'रमेश निवृत्ती कारांडे'.

Therefore, the present darkhast petition is not tenable. Except this, judgment debtor did not challenge the darkhast petition of the decree holder.

5. I have gone through the record of the petition, it appears that, in the present petition, the Hon'ble Cooperative Court Sangli has decreed the suit of the decree holders and thereby directed judgment debtor to pay an amount of Rs. 1,32,200/- along with interest. The suit was filed in the name 'रमेश निवृत्ती कारंडे'. It also appears that, the judgment debtor did not appear in that suit and therefore that matter is proceeded ex-parte against him.

6. It is needless to mention that, this court can not go beyond or behind the decree passed by the Court. Considering the above facts and circumstances, it is just and proper to proceed against the judgment debtor namely रमेश निवृत्ती कारंडे. The person namely रमेश निवृत्ती कारंडे has right to challenge the decree at appropriate Court. Therefore, I am of the view that, in the present petition, as mentioned in the nomenclature of the decree passed by the Hon'ble Cooperative Court, it is necessary to issue attachment warrant against the judgment debtor namely रमेश निवृत्ती कारंडे for recovery of amount of Rs.1,81,494/-. Hence, I pass the following Order:-

ORDER

Issue attachment warrant of Rs.1,81,494/- against the judgment debtor for recovery of maintenance amount as mentioned in the decree as per Order 21 Rule 30 of the C.P.C.

Date :03/03/2025
Sangli.

(G.G.Chonde)
3rd Jt. C.J.J.F & J.M.F.C., Court
Sangli.