



**Order below Exh.96 in**  
**Special Darkhast No.6/2011**

[Sou.Bharati Mali Vs. Ramchandra Mali]

This is an application filed by D.H. for review of an order passed by this Court below Exh.1 on dated 24/06/2021.

(2). To this application, J.D. had not filed any say. The application came to be proceeded further without say of J.D.

(3). Heard learned advocate for D.H. and perused the written notes of argument filed at Exh.94 and Exh.101.

(4). The present Darkhast is filed for recovery of maintenance amount awarded to D.H. in Special Civil Suit No.174/2001. As per D.H., at the time of filing of this Darkhast, an amount of Rs.8,52,625/- is required to be recovered from J.D.No.1.

(5). In pursuance to the same, an application came to be filed by D.H. at Exh.61 for attachment of the properties mentioned therein and for it's sale and for recovery of the decretal amount. This Court allowed the said application on dated 22/02/2019. The J.D.No.6 to 8, in pursuance to the notice under Order XXI Rule 26 of Code of Civil Procedure, 1908, appeared and took objection to it. After consideration of the submissions made by the J.D.Nos.6 to 8 and that of D.H., this Court passed an order below Exh.1 that, the share of J.D.No.1 in the suit properties mentioned in Exh.61 will not be sold for the satisfaction of decree in favour of D.H. The said view was taken after considering that, the specific portion of J.D.No.1 in the

properties mentioned therein cannot be identified as there is no partition by metes and bounds between co-sharers in those properties.

(6). Perused application, the order passed below Exh.61 and Exh.1. Now, D.H., by way of present review application, firstly contended that, sale of share of J.D.No.1 will not amount to a fragment, to be barred, under Fragmentation and Consolidation Act, 1947 and, secondly that, the said order came to be passed by this Court during the Pandemic of COVID-19. During that period, there were guidelines of the Hon'ble High Court, not to pass any adverse order against any party, therefore, therefore, it appears that, the Court had pass an order below Exh.1 and came to a conclusion that, the share of J.D.No.1 cannot be sold. As, now the Pandemic of COVID-19 is over, regular functioning of the Courts have been commenced and as the concept of fragment will not apply to the order of Court for selling the portion of J.D.No.1, therefore, it is necessary to review the earlier order passed below Exh.1 on dated 24/06/2021.

(7). As the none of the J.D. had filed any say to the present application. Moreover, it is not denied that, J.D.No.1 is having any share in the suit property. Once the share of the J.D.No.1 if ascertained and fixed, then, it can be attached and sold. Therefore, it would be proper to allow the present application with directions and pass the following order:

**ORDER**

- (1). A letter be issued to concerned Revenue authority to state the extent of share of the J.D.No.1 in the suit properties as mentioned in Exh.61.

- (2). The D.H. is directed to provide the necessary copies of the revenue documents pertaining to the suit properties for onward transmission to concerned revenue authority.

Sangli  
Date:-16/12/2022.

(M.M.Rao)  
Civil Judge Sr. Dn., Sangli.

**CERTIFICATE**

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

Name of Stenographer : G.S.Parve  
Court : Civil Judge Sr.Dn., Sangli  
Date : 16/12/2022  
Order signed by the Presiding Officer on : 16/12/2022  
Order uploaded on : 16/12/2022