

MHSN020023412019



ORDER BELOW EXH 31 IN REG DKST No.90/2019
(Padma Pore v. Vitthal Patange & Ors)

1. This application is again impressing upon for appointment of Court commissioner for implementing the report of Court commissioner suggesting the division as per markings AKNM. The judgment debtor No. 1, 3 and 5 resisted this application by their say at Exh. 35. Contesting JD No. 2 resisted this application by say at Exh. 34. He has objection of the report of commissioner in DF proceeding.

2. Heard the learned advocates of both sides.

3. The decree is in respect of immovable property decided in DF case. The commissioner was appointed in the said DF proceeding. 1/6th share in the said DF proceeding is required to be brought into force. DF case No. 6/2012 was decided long back. The decree has become fruitless. Stamp duty below the decree and commissioner report has been paid by the DH. The decree is engrossed on the stamp papers. Therefore, it is necessary to issue possession warrant under Order 21 Rule 35 of the Code of Civil Procedure. There is no need to appoint commissioner further. This application is misconceived for appointment of commissioner for further process. However, in order to extract fruits of decree, the Court is bound to pass proper order in order to avoid injustice to the decree holder and consenting parties. Hence, I proceed to pass the following order.

<u>ORDER</u>	
1.	Application is partly allowed.
2.	Issue possession warrant under Order 21 Rule 35 of CPC as per form No. 11 appendix E of CPC for possession of immovable property as per the report of commissioner in the DF proceeding No. 6/2012 identified as AKNM. The

	possession be accordingly handed over in favour of DH about his share and in favour of consenting parties as per the decree.
3.	The possession warrant be addressed to the bailiff of this Court. He is directed to adopt the due procedure as provided in the bailiff manual. Peaceful and vacant possession be handed over and report be submitted.
4.	The order in DF proceeding No. 6/2012, commissioner report and relevant papers be given to bailiff. If the decree holder requires necessary police help for law and order it can take with due permission by bearing their expenses.
5.	When the immovable property under the decree is found locked, the bailiff to adopt procedure under paragraph No. 388 of Chapter No. 21 of Civil Manual.
6.	The copy of order shall also be given to bailiff. CC to comply.

Date: 26/06/2023

(Wahab A. Syed)
2nd Jt.Civil Judge Junior Division
Sangli.

CERTIFICATE

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

Name of the Stenographer	: A.P.Patil.
Name of Court	: 2 nd Jt. CJJD Court, Sangli.
Date	: 26.06.2023
Order signed by the Presiding officer on	: 26.06.2023
Order uploaded on	: 26.06.2023