

Order below Exh. 16 in Regular Darkhast No. 49/2014

Shri Mahadeo Maruti Kamble Vs Bhupal Bandu Surve

CNR No.MHSN-05-000565-2014

1) The decree holders/ original plaintiffs have filed this execution proceeding with respect to decree passed in RCS No. 113/2009 decided on 06.09.2013. The Original plaintiffs had filed suit bearing No. 113/2009 against the defendant with respect to specific performance of contract between plaintiff and Bandu Tuka Surve dt. 09.02.1976. The RCS bearing no. 113/2009 has been decreed and therefore the decree holders have filed present execution proceeding. The decree holders have deposited Rs. 10/- (Rs Ten Only) as per order of the court on 19.10.2015. Thereafter as the suit property is “नवीन अविभाज्य शर्त”, appropriate authorities permission is required before execution of the sale deed in favour of the decree holder. But judgment debtors/ defendants have not appeared inspite of service of notices and therefore there is technical difficulty as to obtaining permission from appropriate authority for sale of the present suit property. The Decree holders have prayed that court commissioner be appointed in order to apply for permission to sell suit property on behalf of the decree holders.

2) The judgment debtors have not filed say to the present application. Therefore, application is taken up for order. It is seen that prior to execution of the sale deed through the court, it is necessary that prior permission of sale be obtained from appropriate authority. As the judgement debtors/original defendants have not remained present in the execution proceeding, there is technical

difficulty for the decree holders as defendants have not remained present for compliance of clause 3 of order in judgement dt.06.09.2013 whereby the defendants were directed to obtain necessary sanction from the concerned authority. As the judgement debtors are not available for obtaining the prior sanction/ permission, it is necessary for appointment of court commissioner for applying for permission on behalf of the plaintiffs / decree holders. The decree holders/ plaintiffs have vide pursis Exh. 28 informed that Advocate Shri Shrikant Kiranrao Patil be appointed as court commissioner. Therefore, I proceed to pass following order:-

Order

- 1) The application is allowed.

- 2). Advocate Shri Shrikant Kiranrao Patil is appointed as court commissioner for applying to appropriate authority for getting prior sanction/ permission for sale of suit property on behalf of the plaintiffs. The court commissioner charges of Rs. 3,000/- (Rs. Three thousand only) and charges for seeking permission from appropriate authority to be borne by the decree holders. Issue commission writ accordingly returnable on or before one month from the receipt of court commissioner writ.

Islampur.
Date:-30-11-2021.

Sd/-
(N.D.Jadhav)
4th Jt. Civil Judge Jr. Dn.,Islampur.

C E R T I F I C A T E

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

Name of the Stenographer	:	Smt. R.S.Kolekar,
Court Name	:	4 th Jt. C.J.J.D. & J.M.F.C., Islampur.
Date of Order/Judgment	:	30.11.2021
Signed by P.O. on	:	01.12.2021
Uploaded on	:	01.12.2021