

**ORDER BELOW EXH.1 and 44 IN REG. Darkhast No. 85/2011**  
**( Tanaji Ingale Vs. S.M.K.C. etc.24 )**

This is an application for issuance of arrest warrant against judgment debtor No.1. The decree holders filed suit for perpetual and mandatory injunction against judgment debtors. It was decreed on 18.07.2011. In spite of sufficient opportunities are given to the judgment debtor the order is not complied. It is submitted on behalf of decree holder that the judgment debtor No.1 is willfully neglecting to obey the order of this Court. There is willful disobedience on the part of judgment debtor. In spite of directions of this Court judgment debtor No.1 failed to comply the order. It has been submitted on behalf of decree holder that judgment debtor No.1 being the Principal Officer is responsible for execution of decree for mandatory injunction, therefore decree holder has requested for issuance of arrest warrant against judgment debtor No.1.

2. I have gone through the order and decree passed by this Court in R.C.S. No.311/2006. The decree holders have filed execution petition on 15.10.2011. In spite of notice judgment debtor failed to comply the order. Therefore arrest warrant was issued on 20.10.2011 against judgment debtor No.1. Thereafter judgment debtor approached to the Hon'ble High Court by filing Writ Petition bearing No.8937/2011 which came to be disposed of on 26.10.2011. As per the directions of the Hon'ble High Court judgment debtor appeared in this Court and filed application vide

Exh.27 for disposing off the execution petition on the ground of fully satisfaction of decree. However said application is rejected by this Court on 14.12.2011. No appeal is filed by the judgment debtor against the said order. The Court has already passed the order below Exh.1 regarding detention of the Commissioner and Dy. Commissioner of Sangli, Miraj and Kupwad Corporation which came to be stayed by this Court.

3. Ld. Advocate for decree holder vehemently submitted that since last 5 years judgment debtor No.1 being officer of Sangli Miraj and Kupwad Municipal Corporation failed to comply the order passed by this Court. Ld. Advocate for judgment debtor submitted that judgment debtor No.1 is taking appropriate steps to comply the order. In support of his contention, he submitted some copies of F.I.R. lodged by the officers of judgment debtor against some merchants and hawkers. The order passed by Dy. Commissioner. S.M.K.C. Dated 13.02.2012 shows that one committee is to be appointed for removal of encroachment on the disputed road. However the letter issued by Dy. Commissioner, S.M.K.C. Dated 21-07-2016 shows that judgment debtor No.1 has not complied the order till today.

4. Perusal of the record it appears that judgment debtor No.1 has not complied the order of the Court. The decree holder filed affidavit to show that judgment debtor No.1 failed to comply the order. Thereafter notice was issued to judgment debtor No.1 along-with direction to the Dy. Commissioner of judgment debtor

No.1 to submit the details of compliance of the order. Dy. Commissioner filed her affidavit and submitted that Judgment No.1 complied the order of the Court, however some period is required for fully compliance. She does not state about specific period. The period of 60 days is expired. No extension is sought by the Judgment Debtor No.1. since last five years Judgment Debtor failed to remove vegetable vendors and hawkers. It failed to submit the details of compliance of the order. No reasons are given for non compliance of the order.

5. The Conduct of officers of judgment debtor No.1 itself shows disregard towards the Court. No alternative or any suitable arrangement for vegetable vendors and hawkers is made by Judgment debtor. The letter issued by Dy. Commissioner, S.M.K.G. dated itself sufficient to show that the officers of judgment debtor failed to comply the order and decree passed by this Court. In spite of direction of the Court the Deputy Commissioner of the Sangli Miraj and Kupwad has not submitted details of compliance of the order. The conduct of the officers of judgment debtor shows that they are intentionally disobeying the order and decree passed by this Court.

6. The Execution Petition is pending in this Court since more than five years. The order of detention of the Commissioner and Deputy Commissioner of Sangli Miraj Kupwad was passed by my learned predecessor on 20 /01/ 2011. In order to give an opportunity to the Judgment debtor to show that it was not willful

failure to obey the decree, the said order is stayed till further order on 4/11/2011. In order to effective execution of decree the Court has no alternative to issue Warrant of detention as per order passed by my Ld. Predecessor dated 20/10/2011. However, Judgment Debtor No,1 is a Corporation. In order to give a last opportunity to comply the order passed by the Court, it will be just and proper instead of issuing a warrant of their arrest, issue a notice calling upon the Commissioner and Deputy Commissioner of the Sangli Miraj and Kupwad Municipal Council, to appear before the Court and show cause why they should not be committed to the civil prison. Hence I pass the following order:

### **ORDER**

Commissioner and Deputy Commissioner of the concerned department are hereby directed to appear before the Court on 10/02/2017 and show cause why they should not be committed in civil prison.

Miraj.  
Date: 02.02.2017

Sd/-  
(V. R. Patil)  
Civil Judge, Jr. Dn. Miraj