

ORDER BELOW EXH. 26 IN SPL.DAR. NO. 38/2018

(Passed On: 01.10.2019)

01] This is an application for issuance of Jangam warrant against J.D.no.2.

02] Perused the application and say of J.D. vide Exh.32. Perused the say of other J.D.. Heard learned advocate for the parties.

03] It is submitted in the application that there are arrears of maintenance of Rs.1,35,000/-. The arrears are not paid by J.D.. Hence, movable property attachment warrant be issued against J.D.no.2.

04] The application is challenged by filing say that it is false and not maintainable. It is submitted that properties in said Spl.C.S.no. 88/1997 were separate properties. The D.H. has obtained P.F. amount of her deceased husband. There is appeal against the decree. So also, in decree of District Court, there is mistake about description about J.D.'s. Hence, application be rejected.

05] Admittedly, there is no stay to the decree. It is clear that Adhoc District Judge, Pandharpur passed order regarding maintenance in favour of D.H. against Ramesh Surwase, Balasaheb Surwase, Kumar Surwase, Sundar Surwase. The present recovery warrant is prayed against J.D.no.2 who is Balasaheb Surwase. It is also clear from the record as well as admitted that arrears of maintenance are not paid as per decree.

06] The issues regarding the properties were separate or not, whether decree is the illegal etc. cannot be entertained in the execution.

The J.D. should have deposited the amount. From perusal of decree, it is held that D.H. is not having any source of income, while J.D.'s are enjoying the properties. The property is stated to be irrigated land. Therefore, the J.D. has source of income, but they have not complied the decree. Hence, distress warrant should be issued in present matter, otherwise decree cannot be satisfied.

07] Merely, any error in description of number of J.D.'s in decree is of no use for the J.D.'s, because order is specifically passed mentioning clearly their names. Hence, following order is passed.

ORDER

Issue movable property attachment warrant against J.D.no.2
i.e. Balasaheb Sidram Surwase.

Date: 01.10.2019.

(M.R. Jadhav)
Jt. Civil Judge Senior Division, Pandharpur

CERTIFICATE

*I affirm that, the contents of this PDF file order are same word to word,
as per the original order.*

<i>Name of Stenographer</i>	<i>:</i>	<i>A.K. Vibhute</i>
<i>Court</i>	<i>:</i>	<i>Jt.Civil Judge Senior Division Pandharpur</i>
<i>Date</i>	<i>:</i>	<i>01.10.2019.</i>
<i>Order signed by the Presiding Officer on</i>	<i>:</i>	<i>01.10.2019.</i>
<i>Order uploaded on</i>	<i>:</i>	<i>03.10.2019.</i>