

MHSO130009532010



R.D. No.25/2010

Irappa Patil

Vs.

M/s. Baldava Co. & ors.

ORDER BELOW EXHIBIT-127

The Judgment Debtors have raised objection by moving this application. They submitted that the decree becomes nullity. When decree becomes nullity, it becomes unenforceable. Hence, prayed for dismissal of the execution.

02. Decree Holder has filed the say at Exh.132. He submitted that the Judgment Debtors have raised baseless objection against him. This objection is only to prolong the decree. Hence, prayed for rejection of the application.

03. Heard both parties. The first objection of the Judgment Debtors is that the Decree Holder has not mentioned the proper description of the suit property. This objection is required to be taken by the Decree Holder in the original suit at the very first instance when they got the suit summons for filing written statement. Now they have no such mouth or right to take such objection. Hence, their objection is baseless.

04. The other objection is that the Decree Holder had asked for vacant possession of the suit property. However, there is construction on the suit property. I have perused entire record. In the plaint, the Decree Holder had mentioned that there was construction on the suit property. The trial Court has

granted the decree and thereby directed to hand over the vacant possession of the suit property. There is no suppression of material facts by the Decree Holder from this Court. So this objection is also baseless.

05. Today, I have decided the objection of objector vide Exh.135. In this application, it is the contention of the Judgment Debtors that the suit property is in possession of said Sunil Bharadia and Decree Holder has handed over the possession of the same to Sunil Bharadia. So enquiry as to who is in possession of the suit property required to be made by this Court. I have perused the entire record. There are certain documents with list Exh.134. In none of the document, Decree Holder mentioned that Sunil Bharadia is in possession of the suit property. When Decree Holder specifically claimed the possession of suit property from Judgment Debtors then there is no need to make enquiry as to who is in possession of suit property. There will be a second round of litigation which will deprive the Decree Holder from testing the fruits of decree. So the present decree is not nullity. The objection taken by the Judgment Debtors is devoid of merit. Hence, application Exh.127 is rejected.

Barshi.
Date : 05/08/2024.

(S.B. Vijaykar)
Jt. Civil Judge (J.D.),Barshi.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment / Order

(a)	Name of the Stenographer	:	Shri.S.R. Barangule
(b)	Court	:	Shri.S.B. Vijaykar, Jt.C.J.J.D.&J.M.F.C. Barshi.
(c)	Judgment /Order declared on	:	05/08/2024
(d)	Judgment /Order signed by P.O. on	:	05/08/2024
(e)	Judgment /Order uploaded on	:	05/08/2024