

Spl.R.D. No. 2/2020.
CNR NO. MHST05-000085-2020.

Order below Exh.37.

1. Present application is filed by J.D.No.1 to 5 contending that, in present darkhast J.D.No.1a to 1c are having 7/144th share, J.D.No. 2, 3 and 4a to 4d are having 7/72 share each and J.D. No.5 is having 7/144th share in the suit property and as such their share be given to them.

2. On present application the J.D.No.6 to 8 have taken objection that the decree in R.C.S.No.129/2012 upon which this darkhast is filed, in the said matter the decree is not passed in favour of J.D.No.1 to 5. The J.D. No.1 to 5 have not filed any appeal against the said decree. Now, the executing court cannot go behind the decree and award shares to J.D.No.1 to 5. As such the J.D. No.6 to 8 have prayed to reject the application. Whereas no objection is given by the D.H. on this application.

3. I have perused the copy of judgment filed vide list Exh.39 In the said judgment para No.53 is quite clear in respect of shares allotted to the J.D. No.1 to 5 (i.e. defendant No.1 to 5). In para No.53 it is specifically mentioned that, the defendant No.2, 3 and 4 who are present J.D. No.2 to 4 will get 7/72th share each. It is even mentioned that the daughters i.e. the defendant No.1, 5, 7 and 8 will get 7/144th share each. As such the judgment speaks about the shares of present J.D.No.1 to 5 and so it is clear that the J.D. No.1 to 5 have shares given

as per para No.53 of the judgment. Though in respect of shares of the defendant is not mentioned in the operative part of the judgment. It cannot be said that, the defendant No.1 to 5 i.e. J.D.No.1 to 5 have not given any share in the suit property. As shares of J.D. No. 1 to 5 are specified in the judgment so they are entitled for the same. As such following order.

ORDER

1. Application is allowed.
2. J.D. No.1 to 5 to take appropriate steps in respect of it.

Karad.

(Smt.S.Y.Deshmukh)

Date :- 23/10/2023.

2nd Jt. Civil Judge, Sr.Division, Karad.