

MHST070025352022



Order Below Exh. 55 in RD No. 47/2022
(Balkrishna Vishnu Patil Vs. Rameshwar Trimbak Swami)

The third party Krishna Charitable Trust filed this application to delete the prayer which is not granted in the decree. It is contended that, DH/plaintiff is seeking execution of decree in RCS No. 368/2017 dated 26/03/2018. Copy of the decree is filed along with list Exh. 3. However, in prayer clause the DH/plaintiff has prayed for appointment of Talathi for handing over possession of the suit property. The decree is not for possession. Hence, prayer for appointment of Talathi for handing over possession of the suit property is tampering of decree. By way of said prayer the DH/plaintiff is intending to obtain relief which is not granted by the Court in RCS No. 368/2017. Therefore, the third party prayed to delete the prayer which is not granted in the decree.

2. DH/plaintiff objected the application by filing say.

3. Heard both sides. Shri. A. T. Ghate learned counsel for the third party submits that, decree is not granted for possession. The DH/plaintiff prayed for appointment of Talathi for handing over possession of the suit property which relief is not granted by the Court which shows that, the DH/plaintiff is tampering the decree in RCS No. 368/2017. Hence, he prayed to delete said prayer from the darkhast.

4. Per contra, Shri. G. P. Shinde learned counsel for the decree-holder/plaintiff submits that, the DH/plaintiff is seeking various reliefs for execution of the darkhast. Merely because additional prayer is made in the darkhast, it cannot be concluded that, the DH/plaintiff is tampering in to the darkhast. He therefore, prayed to reject the application.

5. Perused the record. Record shows that, decree in RCS No. 368/2017 is in respect of fixation of boundaries of the suit property. Perusal of record also shows that, DH/plaintiff has prayed for measurement and fixation of the boundaries of the suit property and also appointment of Talathi for handing over possession of the suit property. Prayers prima-facie shows that, the DH/plaintiff sought for additional relief which is not granted in

the decree. However, merely seeking prayer by the party, it cannot be concluded that, said party is tampering the order of the Court. Seeking the relief from the Court and getting said relief from the Court are two different things which could be decided on available record. Hence, in my considered opinion, merely seeking additional relief is not tampering with decree in RCS No. 368/2017. Said aspect can be considered at the time of granting relief to the DH/plaintiff. Hence, at this stage this application deserves to be rejected. In the result, I pass following order,

ORDER

The application (Exh. 55) is rejected.

Date : 06/07/2026

(Prashant P. Kulkarni)
3rd Jt. Civil Judge Junior Division,
Karad.