

COMMON ORDER BELOW EXHs.84 & 98 IN
R.D.No.94/1990
(CNR No.MHST16-0000071990)

(Laxinarayan Devstan Thro. D.M. Ghotvadekar Vs. S.R. Dev Thro. Vimlabai S. Deo.)

The Decree Holder has filed present application for issuance of possession warrant. He mentioned that on 25.10.2023 when he went along with bailiff for execution of possession warrant then the Judgment Debtor's took objection for recovery of possession. The bailiff report is filed therefore, Decree Holder has filed application below exh.84. Judgment Debtor did not file say to the application. Hence, necessary order may be pass below exh.84.

2. Perused record. On 27.10.2023 the Decree Holder has filed application for appointment of T.I.L.R. as court commissioner for recovery of possession with the help of police. Judgment Debtor has filed say to the application and raised objection that the power of attorney holder has no right to recover possession.

3. Thereafter, he has filed an application that he preferred Civil Revision Application 416/2013 in the Hon'ble Bombay High Court. Thereafter, he has filed order of Hon'ble Bombay High Court passed in Civil Revision Application No.416/2013. On perusal it appears that Hon'ble Bombay High Court directed Judgment Debtor to hand over possession to respondent no.1 within 6 months.

4. The Judgment Debtor No.1C has filed pursis below exh.96 that on 25.06.2024 he is delivering possession to Decree Holder. Thereafter, on 26.06.2024 he filed pursis that he has delivered possession. Learned advocate for the Decree Holder and

Decree Holder himself denied that they received possession of the suit property. Learned advocate for the Judgment Debtor has submitted that he vacated suit property.

5. Considering all the above circumstances it has come on record that Judgment Debtor No.1C has vacated suit property. No any stay order is received. The decree under execution is for recovery of possession of CTS No.2397A/2, 2397A/7, 2397/C. It is necessary to give possession as per the decree of the court. Therefore, the expert person is necessary to be appointed as court commissioner. It is the contention of Decree Holder that other possessors are obstructing in the execution of decree. Therefore, it is necessary to give police aid for execution of decree. For the reasons, I pass following order.

ORDER

1. Issue possession warrant for suit property.
2. T.I.L.R. Wai is appointed as court commissioner for measurement of suit property to hand over the possession of suit property as per the decree.
3. The Police Inspector Wai is directed to appoint Police Constable for execution of decree to the Decree Holder.
4. The Decree Holder shall pay necessary fee to the office of T.I.L.R. for court commissioner and also provide all necessary documents.
5. The Decree Holder shall pay necessary fee for police aid in the office of Assistant Superintendent of Court.

Place : Wai
Date : 23.07.2024.

(C. V. Shirsat)
Jt. C.J.J.D., Wai.