

ORDER BELOW EXH. 16

Read an application. Perused the record. Heard the learned counsel for applicants/decreed holders Adv. Shri. M.R. Kale.

2. Applicants/decreed holders submitted that, on previous date, possession warrant was issued to recover the possession of the suit property. However, defendant no.1 resisted for the execution of possession warrant. Therefore, the applicants/decreed holders prayed to engage a male police constable and female police constable while execution of possession warrant through bailiff.

3. On perusal of record, it appears that, the judgment and decree has been passed in RCS no. 131/2013 and it is directed to defendant no. 1 that, defendant no.1 shall hand over the possession of tin shed and its open land.

4. I also read Order 21, Rule 35 of the Code of Civil Procedure. Rule 35 provides that, where a decree is for the delivery of any immovable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property. Where a decree is for the joint possession of immovable property, such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum, or other customary mode, at some convenient place, the substance of the decree. Where possession of any building or enclosure is to be

delivered and the person in possession, being bound by the decree, does not afford free access, the Court, through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

So on reading Rule 35 of Order XXI, it reveals that, the Court may pass an order to remove or open any lock or bolt or break open any door or do any other act, necessary for putting the decree-holder in possession. In this present situation, according to the applicants/decreed holders, defendant no. 1 resisted to the execution of possession warrant and therefore, the police protection is required to be granted to applicants/decreed holders. Applicants/decreed holder is required to pay requisite fees for police protection in the concerned police station. With this discussion and observations, I pass the following order.

ORDER

- 1) Issue possession warrant vide Rule 35, Order XXI of the Code of Civil Procedure.
- 2) The concern police station officer of Pusegaon police station, after payment of requisite fees from decree holder, is directed to provide police protection to applicants/decreed holder while execution of possession warrant against judgment debtors.
- 3) TILR, Khatav-Vaduj is also directed to remain present at the place of property along-with the map at Exh. 48.
- 4) Parties to take note of it.

Vaduj
Date:14.08.2024

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj.