

MHST200000372020



R.D. No.6/2023

(old No.154/1978)

Dnyaneshwar (through LR's) vs. Nagu (through LR's).

ORDER BELOW EXH.502

Objector namely Shri. Pradip Gajanan Yewale (in short Objector) preferred Writ Petition No.2170/2025 and reported that his Application (Exh.502) under Order XXI Rule 97 of the Code of Civil Procedure (in short CPC) is pending and the Executing Court has not yet passed Order below Exh.502. It is on this count, and in view of Order dated 21/03/2025, in the aforementioned Writ Petition, this Objector sought permission to proceed with the Application vide Exh.502.

02. Heard Mr.S.S.Bamane, the learned advocate for Objector. Heard Mr.A.V.Salunkhe, the learned advocate for Decree Holder (in short DH).

03. It is material to note that, Objector has challenged the Order dated 04/12/2024 vide Exh.619 { Order regarding issuance of Possession Warrant } and Order dated 09/12/2024 vide Exh.625 { Application for Review of Order vide Exh.619 filed by Objector is rejected }; by filing Writ Petition No.2170/2025.

04. It is relevant here to observe that, present Application dated 13/04/2022 i.e. this Exh.502 is filed by Objector on

23/01/2020. Later on, Objector has filed an Application for amendment in Final Decree vide Exh.574. It is by Order dated 13/04/2022 vide Exh.574, specific directions were issued to the Objector as ***“The third party Mr.Pradip Gajanan Yewale is directed not to move such unnecessary Applications henceforth and to create obstacle in the decision of the court on merits unless his right, title and interest in respect of the suit property is decided on merits”***. The cost of Rs.300/- was imposed upon Objector. Till today, Objector has failed to deposit costs.

05. It is extremely important to take into consideration the observation made by Executing Court in paragraph No.3 of Order dated 13/04/2022 vide Exh.574. It is as : ***“The application moved by applicant Pradip Yewale under Order XXI Rule 97 of the CPC is already rejected. He is added as a party to the execution proceeding as per the application of the DH. The issues are framed on Exh.412 and burden is shouldered on the present Applicant to establish his independent right”***.

06. It appears from the aforementioned observation that, the Executing Court has taken into consideration the objection under Order XXI Rule 97 of CPC and was pleased to implead Objector Shri. Pradip Yewale as necessary party to the Execution Proceeding { Order dated 02/01/2020 vide Exh.419 }. It is at this stage, liberty is given to the Objector to raise objection. The Objector appeared and filed Say (Exh.502) to the Application vide Exh.419. The Objector is very clever to submit that, this Say vide Exh.502 be treated as his objection under Order XXI Rule 97 of CPC. In view of the said submission, Additional

Issue No.3A has been framed on 12/03/2020. The Executing Court was pleased to grant opportunity to the Objector to adduce evidence, if any.

07. The Order dated 19/11/2021 to that effect came to be passed below Exh.01. It is necessary to reproduce that Order dated 19/11/2021 which is regarding Exh.502, which runs as follows :

“In view of Exh.419 objector Pradip Yewale appeared and filed Say below Exh.502. Also, said Objector submitted that, his say be treated u/o . 21 x 97 cpc. In view of Say on 12/03/2020 Additional Issue framed and opportunity given to said objector. Accordingly said objector to lead evidence forthwith ”.

08. In spite of the aforementioned order, Objector Shri. Pradip Yewale failed to adduce evidence. As a result, Order dated 29/11/2021 vide Exh.01 came to be passed. It is material to note that, opportunity to cross examine DH, was also given to the Objector Shri.Pradip. As the Objector failed to cross examine DH, ‘No Cross’ order has been passed by Order dated 10/03/2022 vide Exh.561. Objector seeks, to set aside the ‘No Cross’ order by moving Application vide Exh.566. The Executing Court was lenient and granted opportunity by allowing application with costs of Rs.2,000/- by Order dated 24/03/2022 vide Exh.566. Objector is so reluctant that he neither paid the costs nor avail the opportunity to cross examine the DH.

09. In spite of the non compliance of the Order on the part of Objector, the Executing Court while deciding the objections raised by other Objectors namely Shri.Hemant Vasantrao Nalawade, Shri.Amit

Vasant Gudghe, Yashwant Rajaram Jamdade; has also taken reference of the objection of Objector Shri Pradip Yewale. Not only this, the Order speaks about the opportunity of evidence to the Objector Shri. Pradip Yewale and he failed to avail the opportunity. As such, the Applications under Order XXI Rule 97 of all the aforementioned four Objectors are rejected by Common Order dated 11/08/2022 below Exh.Nos.1, 354, 355 and 356.

10. After deciding all the aforementioned objections of the four objectors, the order as to issuance of Possession Warrant came to be passed on 04/12/2024 vide Exh.619. Objector Shri. Pradip moved an Application (Exh.625) for Review of order vide Exh.619. The said application for Review has been rejected with costs of Rs.50,000/- by Order dated 09/12/2024 vide Exh.625. As such, at present there is no pending application as alleged and as complained of by Objector Shri. Pradip Yewale.

11. It will not be out of place to mention here that, Objector Shri. Pradip Yewale made non-compliance of the order thrice by non payment of costs. It appears that, this Objector went on moving Applications and went on seeking reliefs without complying the Orders. It is absolutely false submission as made by Objector Shri. Pradip in Writ Petition that, no orders yet passed below Exh.502.

12. Mr.S.S.Bamane the learned advocate for Objector is fair enough to submit that, he is seeking no more reliefs from the Executing Court. He submitted that, Objector is neither asking opportunity to lead evidence nor making attempt to advance final

hearing. Only the grievance of the Objector, so raised before Hon'ble High Court is that, no Order passed below Exh.502.

13. At the cost of repetition, it is necessary here to note and consider that, **Order dated 19/11/2021 vide Exh.01 is itself the order below Exh.502** and that too, in view of the submission of the Objector Shri. Pradip Yewale that, his Say vide Exh.502 be treated as his objection under Order XXI Rule 97 of CPC. This is the only reason that, no Order could be passed on the 'Say' given by party. Order has to be passed only upon 'Application' made by the party. It is the general practice that the 'Say' given by party has to be endorsed as 'seen'. Thus, the Executing Court has passed specific Order dated 19/11/2021 below Exh.01. The learned advocate for Objector Shri.Pradip has noted the said Order. This aspect shows that, the learned advocate has knowledge that the Order had been already passed below Exh.01, which is regarding Exh.502. In spite of the knowledge of the true fact, it is not known as to why the false submission was put up before Hon'ble High Court in the Writ Petition No.2170/2025.

14. Considering the aforementioned conduct of the Objector Shri. Pradip Yewale, once again leads to conclude that he is trying to obstruct the execution of decree in Darkhast which is more than 40 years old. It appears that, Objector is intentionally committing the breach of Order in spite of the directions in view of Order dated 13/04/2022 vide Exh.574. He has also tried to prolong the matter under the garb of providing opportunity either by way of Application for amendment in Final Decree (Exh.574) or by way of Application for

setting aside 'No Cross' order (Exh.561). Finally, the objection so raised by Objector Shri. Pradip Yewale stood decided alongwith objections raised by other Objectors in view of Common Order dated 11/08/2022 vide Exh.Nos.1, 354, 355 and 356. In spite of the said Judgment, Objector Shri.Pradip Yewale could not stop himself even from opposing the Order as to Possession Warrant (Exh.619). He further filed Review Application which is rejected (Exh.625). Lastly, when nothing remains, he dragged up by making allegation that no order yet passed below Exh.502.

15. Considering the non compliance of the Order on the part of Shri. Pradip Yewale and in view of delaying this Darkhast unnecessarily, following order is passed :

ORDER

- 1] Order dated 19/11/2021 vide Exh.01 is itself order below Exh.502.
- 2] The Objector Shri Pradip Gajanan Yewale shall pay costs of Rs.50,000/- (Rupees Fifty Thousand) to the Decree Holder (2C) within one month from the date of this order, failing which Decree holder is entitled to recover the same at the rate of interest 2% p.a. from the date of failure till the final realization of entire amount.
- 3] This Order be retained with Exh.01.

Place : Wai
Date : 02.04.2025

(Priti D. Taru)
Civil Judge Senior Division, Wai
Dist. Satara.

CERTIFICATE

I am affirm that the contents of this [P.D.F.](#), file Order are same, word to word, as per the original order.

Name of the Stenographer	:-	G.M.Kulkarni (Steno Grade-II)
Court	:-	Civil Judge Senior Division, Wai. Dist. Satara.
Date	:-	02.04.2025
Order signed by the presiding officer on	:-	03.04.2025
Judgment/order uploaded on	:-	03.04.2025