

CNR-MHYA110014772025



ORDER BELOW(Exh.21)In Regular Darkhast. No.09/2025

Shivaji Mane Vs- Executive Engineer

(Passed on 03/02/2026)

The present application filed by JD No.2 Executive Engineer Pusad for setting aside no say order and for seeking permission to file say.

02. The say of DH is called for. The DH has raised strong objection. According to DH as per bailiff report (Exh.09) the Notice to JD is served on 21.07.2025 and the present application is not within limitation. DH has contended that, the JD no.2 has not obeyed the order as per (Exh.11) passed by this Court. Hence, prayed to reject application.

03. Perused the record. Heard Ld. Advocate Shri. D.M. Suryavanshi for the decree holder present today. And the Ld. Advocate Shri. Mohasing baig Mirza for the JD No.2. The present execution proceeding is filed for recovery of amount as per judgment and decree passed in RCS No. 2/2021 by my Ld. Predecessor in Shivaji Mane Vs- Adhikshak and others.

04. After institution of regular Darkhast summons to judgment debtors no. 1 to 4 were issued. Said summons are served to the judgment debtors, same is evident by bailiff reports vide **(Exh. 6 to 9)** respectively.

05. After issuance of above summons/notices, judgment debtors did not appear in this proceeding. However, judgment debtor no. 2 Executive Engineer M.S.E.B Pusad had forwarded one letter dated 06.08.2025 which is marked at **(Exh. 13)**. Along with this letter JD No. 2 had filed one demand draft of Rupees 2,65,412/- bearing its **serial no.**

319847, in the name of Civil Judge Jr. Division. The said DD is filed for the payment to the DH as per the decree stated above.

06. The A.S. of this court filed detailed say at (**Exh. 13**) that, the PLA number is not received to this court by the government. Hence, said demand draft cannot be accepted and deposited in the Court account. Accordingly letter to the JD No. 2 vide (**Exh. 12**) was issued calling to correct the demand draft in the name of original decree holder **Shivaji Nagorao Mane**. However, the letter is not reached to the JD No. 2

07. Ld. Advocate Shri. D.M. Surayvanshi for DH is present. Ld Advocate has filed application (**Exh. 10**) to give directions to the JD for correction of Demand draft in the name of decree holder. Ld. Advocate has also filed application (**Exh. 11**) to give the copy of order by hand to him.

08. Thereafter, the proceeding was proceeded was ex-parte. However, JD No.2 appeared through his Advocate and filed the present application. It is matter of record that, the JD No.2 himself has forwarded the demand draft for payment to the decree holder. However, thereafter the demand draft could not be en-cash and JD no.2 was called upon to correct the same in the name of decree holder. The original demand draft was returned to the JD No.2 and he was ask to issue the same in the name of DH for execution of decree. However, instead of doing so the present application is filed.

09. If the JD No.2 was contesting or was intending to contest the present execution then question arises as why he has issued demand draft directly without appearing in the present proceeding. It was not the case of JD No.2 that he has filed or intending to file the appeal against this proceedings. It appears that, due to the delay caused by JD No.2 DH is suffering. There is nothing on record that JD No.2 has

preferred appeal. There is no provisions in CPC to allow the JD to file say on the execution filed by the DH. However, the JD can be heard about the institution of first appeal. Considering all following order will meets ends of justice.

ORDER

- 1 Application (**Exh.21**) is allowed subject to payment of costs of Rs.7,000/- (Seven Thousand Rupees Only) which shall be payable to the DH within 14 days from today.
- 2 After payment of costs the JD No.2 is permitted to file his say or reply.
- 3 In case JD No.2 fails to comply with this order, the proceeding will continue ex-parte and without say as per previous order.
- 4 Both parties or their Ld. Advocates to take note of this order.
- 5 Parties are directed to expedite the trial.

Date : 03/02/2026

(S.G.Thanedar)
Judicial Magistrate First Class
(Court No. 02)
Umarkhed

CERTIFICATE

“ I certify that this Order uploaded is a true and correct copy of original signed Order”

Order directly dictated on : 03.02.2026

Order checked and signed on : 03.02.2026

Uploaded by : B.G.Sawate, Stenographer (Gr.III)

Uploaded on : 03.02.2026