

CNR No.MHYA230012132020



Arbitration R.D.No.1013/2019

The Akola Janta Commercial Co.Op. Bank Ltd.

-- Vs--

Subhash Bhalchandra Chinnawar

Order Passed Below Ex.42

The present application is filed by objector under section 47 of the Code of Civil Procedure(in short 'CPC').

2) Read the application and say given by D. H. on application itself. In this application it is submitted that objector No.1 and 2 are daughter and son of J.D. No.1. The property under proclamation i.e. survey No.136 is the ancestral property of both objector. Therefore, they are having shares on it. It is further submitted that J.D. No.1 was not having any power to mortgage this property. The above property is mortgaged by J.D. No.1 without any legal necessity. Both objector were minor at the time of mortgage, therefore, it was necessary for J.D. No.1 to obtain permission from the court prior to mortgage. Both the objector are having share in the attached property therefore, they prayed to exempt attached property from execution of decree.

3) Heard both sides. The present application is filed by representative of J.D. No.1. Therefore, it is necessary to see whether the application is tenable or not.

4) Section 47 of CPC is one of the most important provision relating to execution of decree. The scope of this section is very wide and comprehensive. In this section exclusive jurisdiction has been conferred on executing court in respect of all matters relating to

execution, discharge or satisfaction of decree arising between the parties or their representatives. In this section two conditions must be satisfied i.e. i) the question must be arising between the parties to the suit in which the decree is passed or their representatives and ii) it must relate to the execution, discharge or the satisfaction of the decree. The first condition for applicability of this section is that the question to be determined by the Court must be one arising between the parties to the suit or their representatives. But such a question must arise between the parties to the suit or their representatives and not between the party and his own representative. In this application both objector are filed this application being representatives of J.D. No.1. The question raised by objector is between them and J.D. No.1. The dispute between them can not be said to be dispute arising between parties to the suit, because it is a dispute between one party and his own representatives. Therefore, this section is not applicable to the objector. The application have no merits, deserves to be rejected. Hence, I pass the following order.

ORDER

01.	Application is rejected.
02.	No order as to costs.

Date:- 06/03/2025.

(**Hemant S. Bhure**)
Civil Judge Senior Division
Umarkhed.

CERTIFICATE

I affirm that, the contents of this PDF file order are same, word to word as per the original order.

Name of the Stenographer	:-	R. R. Warankar, Gr.II
Name of the Court	:-	Civil Judge(Sr.Dn.) Court, Umarkhed
Order date	:-	06/03/2025
Order signed by the Presiding Officer on	:-	06/03/2025
Order uploaded on	:-	06/03/2025