

MHYA240001632025

**COMMON ORDER BELOW EXH. 37 and 42**

- 1) As per Exh.37 and 42 decree holder has prayed for sale of attached property as per Order XXI Rule 64 and 66 of C.P.C. by contending that the immovable property of the sole J.D. Gat no.58/3 admeasuring 1H.13R. has been attached by this court. Hence, decree holder prays for sale of attached property by auction sale for recovery of 4,70,439/- and as per Exh.42 the recoverable amount has been mentioned as Rs.5,55,189/- by sale of 40R. area of Gat no. 58/3.
- 2) Sole J.D. resisted this application as per Exh. 54 and 55 by contending that there is no any order of attachment of property and there is no any reason for auction sale of the property and Rs.1,00,000/- has been paid so far and she is ready to pay the amount in installments due to her hardship for crop failure and it is her only medium of livelihood.
- 3) Heard Learned Counsels of the D.H. and J.D. Perused entire record.
- 4) This is the Spl.Dkst. for recover of an amount of Rs.4,70,439/- and J.D. has so far paid Rs.1,00,000/- by paying Rs.50,000/- as per Exh.40 and Rs.25,000/- each as per Exh.43 and 44.
- 5) Moreover, property has been attached as per Exh.14 and there is bailiff report about attachment vide Exh.31.

Moreover, the valuation report of the attached property has also been filed which states that the valuation of the property is Rs.31,95,000/- of area 2.13 H.R. of Gat no.58/3 of Chikhalgaon and there is entry of attachment and 7/12 extract as per mutation entry no.13309.

6) However, as per Exh.41 there is grant of amendment of the calculation as per order dated 15/04/2025 which is Rs.6,05,189/- and interest has been calculated till 18/04/2025. However, record does not reveal that amendment has been carryout in Exh.01. Moreover, the already deposited amount has also not been deducted from the recoverable amount.

7) The decree holder need to carryout the amendment as per Exh.41 and need to further exclude the deposited amount before proceeding with the auction sale of the attached property.

8) Hence, due to above mentioned deficiencies, both applications need to be disposed of with liberty to file fresh applications after compliance as observed above. Hence, I proceed to pass following order;

ORDER

1) Application Exh.- 37 and 42 are hereby disposed of with liberty to file fresh applications after compliance.

2) Keep the matter for compliance.

Date : 30/04/2026.

(P. S. Jondhale)
Civil Judge (Sr. Dn.),
Wani.