

Darkhast No. 2756/2020

CNR NO. MHPU-01-005964-2020

Kailas D. Tonde

Vs.

Special Land Acquisition Officer No. 17 Pune & Ors.

ORDER BELOW EXH. 27

Perused application and heard advocate of Judgment Debtor No. 2. Also perused the record. On 03/07/2025 this Court has passed order of issuance of warrant of attachment under Order XXI Rule 43 of the Code of Civil Procedure below Exh. 10. Then after on the same day Judgment Debtor No. 2 submitted application for recalling of the said order. That, application was heard and rejected on 17/11/2025. Therefore, the order which was passed on 03/07/2025 needed to be executed. On the basis of that order warrant of attachment is issued. As there is already order of issuance of warrant of attachment dt. 03/07/2025 Exh. 10 passed by this court and as the application of recalling of warrant Exh. 13 is rejected, there is no need to pass the order of attachment on 17/11/2025 again as stated by Judgment Debtor No. 2 in the application.

2. The warrant is being executed today as mentioned by advocate of Judgment Debtor No. 2. The present execution petition is pending for last 5 years. The Decree Holder has lost his land and also waiting for compensation for so many years. Judgment Debtor No. 2 had filed pursis Exh. 24 on 17/11/2025 stating that, he is going to challenge the order passed by this Court on 17/11/2025. It is also

submitting in the pursis that this Court not to take any action till the filing of appeal and its decision. Filing of pursis showing intention of preferring appeal does not operate as stay to the proceeding. Further Judgment Debtor No. 2 cannot stop a Court from taking further action to execute the decree on the basis of intention of preferring appeal. Executing Court can issue warrant to execute the decree in absence of stay from any of the Hon'ble higher Court.

3. As the warrant is being executed, the present application is filed which cannot be allowed by taking into consideration the pendency of the execution as well as rejection of previous application of recalling of warrant Exh. 13. Hence, the present application deserves to be rejected. Accordingly I pass the following order.

ORDER

The application is rejected.

Date :- 02/01/2026

(S. W. Ugale)
2nd Addl. Judge, Small Cause Court
& CJSD, Pune