

**Money Execution 01 of 2022 (Reg. 01 of 2022)**  
**CNR No. WBSP07-003722-2022**  
**J.O Code No.-WB01066**

**Order dated 11-11-2025.**

Today is fixed for passing order in the matter of attachment under order 21 rule 13 of C.P.C filed by the D.Hr.

D.Hr files hazira.

Record is taken up for passing order.

I have carefully gone through the petition in hand, the evidence of D.Hr, copy of development agreement dated 06/07/1996, execution petition (up to date).

From the case record it appears that J.Dr although appeared in the instant proceeding and filed written objection against the petition of attachment, but subsequently left the proceeding abandoned.

The petition contended that the judgment debtor did not pay the decretal amount as yet and as such, the property as mentioned in the schedule of the petition under order 21 rule 13 of C.P.C is liable to be attached and sold. In support of the existence of the property, D.Hr filed one xerox copy of development agreement where the original J.Dr Bijoy Nag Chowdhury along with Sailendra Nag Chowdhury (present substituted J.Dr and one Ajay Nag Chowdhury were shown as owners and their portion was allotted jointly in schedule 'B' of the agreement dated 06/07/1996, Notarized on 15/07/1996.

The room and the shop which are intended to be attached under order 21 rule 13 of C.P.C are past of joint allotment of all three owners.

Order dated 20/04/2024 passed by the Court reflects that substituted J.Dr Sailendra Nag Chowdhury are substituted as the sole legal heir of deceased Bijoy Nag Chowdhury. But the fact remains that Ajay Nag Chowdhury is the another brother of Late Bijoy Nag Chowdhury. Case record does not reveal anything about said Ajay Nag Chowdhury. If Bijoy Nag Chowdhury died unmarried and intestate, then not only Sailendra but also Ajay Nag Chowdhury along with sisters, if any, became the legal heirs of Late Bijoy Nag Chowdhury and liable to inherit his portion and should be impleaded as Judgment Debtors (Substituted).

Record reveals that the Decree Holder even having knowledge that Late Bijoy Nag Chowdhury had two brothers, substituted only one and remained silent about Ajay Nag Chowdhury.

The real problem is that the schedule property as mentioned in the petition is a jointly property and the D.Hr has failed to produce any document to show that the room and the shop which are intended to be attached specifically belonged to Late Bijoy Nag Chowdhury.

Order 21 rule 13 of Code of Civil Procedure is very specific on the point that the description of the property to be attached, must be sufficient to identify the same and specific of the judgment debtor's share or interest in that property.

As earlier discussed that the property intended to be attached are part of a joint property (relied on development agreement), thus no part of the property can be attached on a whim at the peril of D.Hr, unless the entire picture get cleared.

In the situation, I am not inclined to allow the petition under order 21 rule 13 of C.P.C dated 20/05/23 filed by the D.Hr.

The petition is disposed off accordingly.

At the same time, D.Hr is directed to take necessary steps regarding legal heirs of Late Bijoy Nag Chowdhury.

Fixing 03/01/2026 for taking steps by D.Hr.

Dictated & corrected by me,

Sd/-

Civil Judge (Sr. Divn.),  
SCC, Sealdah

Sd/-

Civil Judge (Sr.Divn.),  
SCC, Sealdah