

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14707 of 2025**

=====

NARENDRABHAI @ NARANBHAI RAMBHAI MAKWANA

Versus

LH OF DECD. PUNABHAI BHOVANBHAI BARIYA & ORS.

=====

Appearance:

MR MONAL S CHAGLANI(10240) for the Petitioner(s) No. 1

=====

CORAM:**HONOURABLE MR.JUSTICE MOOL CHAND TYAGI****Date : 15/10/2025****ORAL ORDER**

1. Heard learned advocate for the petitioner.
2. Learned advocate for the petitioner submitted that the order dated 07.10.2025 passed below Exh-21 in Execution Petition No.7 of 2024 is against the settled position of law in as much as is not sustainable under the provisions of Section 51 and Order 21 Rule 41 (3) of the CPC. He further submitted that it is the admitted case of the decree holder that the judgment debtors are not having the sufficient means to pay the decretal amount, despite this fact the order came to be passed for issuance of warrant. He further submitted that in view of the judgment of **Jolly George Varghese Vs Bank of Cochin**, reported in **1980 (2) SCC 360**, the impugned order is not sustainable.

3. Having considered the submissions of the learned advocate for the petitioner, issue notice to the respondents, returnable on 21.11.2025. In the meantime the execution, implementation and operation of order dated 07.10.2025 passed below Exh-21 is stayed till then.

CDP

(MOOL CHAND TYAGI, J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHIRAG DESHRAJ PAL(HCD0072), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 04/11/2025 14:44:37