

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**C. M. P. [Filing] No. 8952 of 2025**

Ashish Taneja

.... . Petitioner(s)

Versus

Most. Nemat Khatoon & Ors.

.. . . .Opp. Party(s)

.....  
**CORAM :HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY**

.....  
For the Petitioner(s) : Mr. Rahul Kr. Gupta, Advocate

Mr. Rakesh Kr. Singh, Advocate

For the O. P(s). :

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**02/ 21.08.2025.** It is submitted by learned counsel for the petitioner that all the surviving defects including the filing of required typed copies have been removed yesterday.

The instant CMP has been filed against the order dated 14.07.2025 (Annexure-6) passed by the Civil Judge (Sr. Div.)-VII, Ranchi in Civil Misc. Case No.114 of 2023 whereby and whereunder the petition filed under Order XXI Rule 97 & 99 read with Section 151 CPC has been rejected.

Partition Suit No.82 of 1985 was decreed in favour of the Opp. Party Nos.1 to 5 vide judgment dated 03.06.2008 and final decree drawn on 05.03.2020.

Opp. Party No.31 [Smt. Rekha Devi Jain] had purchased the part of the suit property and also taken a loan from the State Bank of India by mortgaging it and in default, the proceedings under the SARFAESI Act, 2002 were initiated.

The present petitioner purchased the land measuring an area of 43 karrie and an area of 6752 Sq. Feet, G+4 construction at Upper Bazar, Ranchi and the sale-deed was registered on 20.01.2016 before the District Sub Registrar, Ranchi vide Deed No.270 of 2016.

It is submitted by learned counsel for the petitioner that the present petitioner /auction purchaser was in complete ignorance of the said Partition decree and when he came to know about the final decree, he moved before the learned Executing Court under Order XXI Rules 97 & 99 CPC, but the said petition was rejected and thereafter the instant CMP has been filed.

Since the order rejecting the petition is *in limine* and without entering into the merit of the case, therefore it will not come within the meaning of

decree as defined under Section 2(2) of the CPC, therefore, the same will not apply.

Issue notice to the decree-holders through the counsel appearing on their behalf before the Executing Court under Order III Rule 5 CPC under ordinary process for which requisites etc., must be filed within a week.

Learned court below shall send the service report within two weeks thereafter.

List this case on 15.09.2025.

In the meantime, further proceedings of Execution Case No. 05 of 2022 shall remain stayed.

**(Gautam Kumar Choudhary, J.)**

Sandeep/-