



A.No.2373 of 2026
in
E.P No.98 of 2025

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MASTER
01.07.2026

ORDER

1. The above application is filed by the applicant / decree holder to order demolition of the structure in the petition schedule mentioned property and direct the delivery of vacant possession of the property to the decree holder.

2. The counsel for the decree holder submitted that he has filed the execution proceedings for delivery of vacant possession of 1/3rd share by metes and bounds confirming the Judgment and decree dated 25.10.2024 wherein notice was duly ordered upon the respondents and the 1st respondent was set exparte on 18.02.2026 and on due contest made by the applicant and the 6th and 7th respondent this court passed an order of delivery on 09.04.2026. When the decree holder along with the Bailiff went to execute the warrant the 1st respondent obstructed to the execution of delivery warrant issued by this court and further it is seen that a small structure in the portico of the 1st respondent had been extended into the portion of Part-A in the sketch annexed to the Advocate Commission report which founds part and parcel of the decree dated 25.10.2024, which portion is allotted to the applicant and hence this application to demolish the structure in the petition schedule property.

3. On perusal of the records, it is seen that final decree was passed in the suit for partition allotting 1/3rd share to the petitioner by metes and bounds and the decree has become final based on which this court has already ordered delivery on 09.04.2026. Further perusal of Bailiff report goes to show that at the time of execution of delivery warrant the Judgment debtor locked the gate and protested that there is a home available in the said address. The applicant has filed the present application stating that only a small portion in the portico is extended to the portion allotted to him and unless the said portion is removed the delivery cannot be effected



effectively.

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4. This court as an executing court cannot go beyond the decree. The decree was obtained on 25.10.2024 but till date the decree holder is not able to enjoy the fruits of the decree. Though the 1st respondent appears before this court on every hearing and an advocate claiming to represent on his behalf whose vakalat does not found place on record, represents that he has taken steps to prefer an appeal against the preliminary decree itself. But till date he has not furnished any SR number or has not produced any stay order from any of the Appellate Court, in such circumstances this court is not inclined to entertain his representation.

5. In view of the aforesaid discussion this court is of the opinion that in order to aid the execution of decree dated 25.10.2024 and to execute the delivery warrant issued by this court and to give fullest effect to the decree, this application is to be allowed.

Accordingly, this application is allowed. No cost.

MASTER