

**EP No.14 of 2025**

MASTER
07.07.2026
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ORDER

1. This Petition has been filed under Order XXI Rule 64 & 66 of CPC to issue a warrant for sale of immovable property belonging to the Judgment Debtors 1 & 2 to realize the E.P claim amount as per the Judgment and decree dated 22.03.2024 in C.S No.284 of 2020.

2. The decree holder states that the suit in C.S.No.284 of 2020 was decreed in his favour by a Judgment and decree dated 22.03.2024 wherein Hon'ble High Court has directed the defendant to pay a sum of Rs.2,01,21,875/- along with the interest @ 6% from the date of decree till the date of realisation along with interest @ 7.5% from 01.03.2020 till the date of decree and so the Judgment debtor is liable to pay Rs.2,72,41,079/-. The decree was not satisfied by the Judgment debtors. Further, it is stated that the E.P schedule mentioned property was attached before Judgment by the Hon'ble High Court by an Order dated 09.09.2021 in A.No.1409 of 2021. Hence, this petition to issue a warrant of sale of immovable property belonging to the Judgment Debtors 1 & 2.

3. Per contra, the Judgment debtors filed their counter affidavit stating that the suit has been decreed for a sum of Rs.2,01,21,875/- along with interest @ 6% from the date of decree till the date of realisation only on the basis of their representation that they are willing to pay the advance amount received by them to the decree holder along with interest and also they have conceded to the above said decree and agreed to contest only the counter claim filed against the decree holder. After the passing of decree they had made several attempts to directly pay the plaintiff the decretal amount which was refused by the plaintiff and so they had approached the Hon'ble



Court to deposit a sum of Rs.1,20,00,000/- to the credit of E.P No.10 of 2025 towards part satisfaction of the Judgment and decree dated 22.03.2024. It is further submitted that when the decree is passed for a sum of Rs.2,01,21,875/- along with interest @ 6% from the date of decree till the date of realisation, the decree holder cannot independently calculate interest @ 7.5% on every single transaction made by the Judgment debtor to the decree holder which is not in accordance with the Judgment and decree dated 22.03.2024. The decree holders has filed this E.P and E.P No.10 of 2025 only to harass them and extract additional money by way of interest from them. Hence, this E.P is liable to be dismissed.

4. Whether this petition deserves to be allowed or not?

5. Heard both side counsels. No oral or documentary evidence let in by both the sides. C.S.No.284 of 2020 was filed by the decree holder for recovery of money based on demand promissory notes which was decreed in his favour by a Judgment and decree dated 22.03.2024. The Judgment debtor has not filed any appeal against the said decree. In the course of arguments the learned counsel for the decree holder submitted that the Hon'ble High Court while answering to issue No.1 has categorically held that "the terms of the contract makes it very clear that in the event of breach by either party, Rs.5,00,000/- liquidated damages is payable by the party who committed breach against the other. In such view of the matter, this court is of the view that as the sale has not been fructified and the receipt of advance is not disputed and even the defendants are willing to pay that amount and a suggestion has been put to the plaintiff, the plaintiff is certainly entitled for recovery of the advance amount paid by the plaintiff. Though the plaintiff has claimed 24% interest, this court restrict the interest to the rate of 7.5% from the date of payment. The issue No.1 is answered accordingly." But whereas while drafting the decree it was drafted as "The suit is decreed with proportionate costs directing the defendants to pay a sum of Rs.2,01,21,875/- along with interest at the rate of 6% from the date of decree till



the date of realisation [after deducting a sum of Rs.12,50,000/- payable by the plaintiff to the defendants towards damages along with interest at the rate of 7.5% from 01.03.2020 till the date of decree [i.e., Rs.10,00,000/- towards damages + Rs.2,50,000/- towards interest]." instead of "The suit is decreed with proportionate costs directing the defendants to pay a sum of Rs.2,01,21,875/- along with interest at the rate of 6% from the date of decree till the date of realisation along with interest at the rate of 7.5% from 01.03.2020 till the date of decree [after deducting a sum of Rs.12,50,000/- payable by the plaintiff to the defendants towards damages [i.e., Rs.10,00,000/- towards damages + Rs.2,50,000/- towards interest]."

6. It was further argued by the learned counsel for the decree holder that if there is some inconsistency between the judgment and the decree, the real intendment of the result of the suit should be gathered by re-conciliation between the judgment and the decree. The decree should not be read in isolation to the Judgment and both should be read together to meet the ends of justice. In support of his contention the learned counsel for the decree holder relied on the Judgments in

(i) State Bank of India –Vs-- Maa Saradha Oil Mills and Others dated 10.09.2002 passed by the Hon'ble High Court of Guwahati (Agarthala Bench) wherein it is held that "*It is the settled proposition of law that while there is some inconsistency between the Judgment and the decree, the real intendment of the result of the suit should be gathered by re-conciliation between the Judgment and the decree. Neither the decree nor the Judgment should be read in isolation, but in combination. The learned Executing Court is duty bound to give effect to the decree in its substance and should not pass any order rendering the Judgment as futile attempt.*"

(ii) Rajendrakumar –Vs-- Kuldeep Singh and Others (Civil Appeal No.1873 of 2014 (Arising out of SLP (C) No.19215 of 2011)) dated 07.02.2014 wherein Hon'ble Apex Court held that "*As in the case of a decree for specific*



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performance where equity weighs with the court so is the situation in considering an application under Section 28 of the Specific Relief Act, 1963 for rescinding the contract – Decree for specific performance is a decree in favour of both the plaintiff and the defendant in the suit which can be executed either by the plaintiff or the defendant and both also are free to approach the court for appropriate clarification/directions in the event of any ambiguity or supervening factors making the execution of the decree inexecutable."

(iii) Seth Manakchand –Vs-- Chaube Manoharlal and Others dated 21.12.1943 wherein Hon'ble Privy Council held that "*for the purpose of interpreting a decree no other document is so directly in point as a Judgment or can in the nature of things having comparable force.*"

7. Per contra, the learned counsel for the Judgment debtor submitted that there is no any ambiguity in the decree and the decree was drafted in terms of the Judgment wherein the 7.5% interest from 01.03.2020 till the date of decree was granted to the sum of Rs.12,50,000/- payable by the plaintiff to the defendants and the same has been clearly mentioned in the decree and so the decree holder cannot independently calculate pre-suit interest @ 7.5% on the decreetal amount and the said interest @ 7.5% was awarded on the sum payable by the plaintiff to the defendants towards damages. The learned counsel for the respondent further submitted that during pendency of this execution proceedings he has fully satisfied the entire decreetal amount of Rs.2,16,45,000/- which is also acknowledged by the decree holder and a memo to that effect also been filed before this Court.

8. Now, the only point to be decided by this court is whether the claim of the decree holder that as per the decree dated 22.03.2024 the Judgment debtor is liable to pay a balance amount of Rs.61,28,070/- is to be allowed or not? On perusal of the Judgment and decree dated 22.03.2024 which reads as follows:

"Accordingly, the suit is decreed with proportionate costs directing the defendants to pay a sum of Rs.2,01,21,875/- along with interest @ 6% from the date

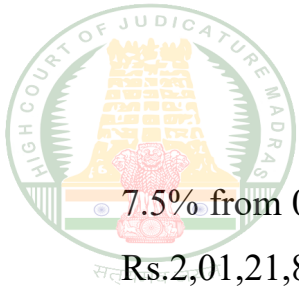


of decree till the date of realisation (after deducting a sum of Rs.12,50,000/- payable by the plaintiff to the defendants towards damages along with interest @ 7.5% from 01.03.2020 till the date of decree (i.e.Rs.10,00,000/- towards + Rs.2,50,000/- towards interest)."

9. A perusal of the Judgment dated 22.03.2024 it is seen that while deciding issue No.1 the Hon'ble Court had observed that though the plaintiff claimed interest @ 24% per annum, the same was restricted to 7.5%. However, the decree drafted pursuant to the Judgment specifically decreed the suit for a sum of Rs.2,01,21,875/- with proportionate cost and further directed the defendant to pay interest @ 6% per annum from the date of decree till the date of realisation, only.

10. It is settled proposition of law that an executing court cannot go beyond the decree and is bound to execute the decree as it stands and cannot grant any relief which is not incorporated in the decree. Likewise, in several cases Hon'ble Apex Court has held that while the executing court may construe the decree with reference to the Judgment where there is an ambiguity, it cannot add to, alter or modify the decree itself. In the present case, the decree quantifies the decretal amount and grants future interest @ 6% per annum from the date of decree till the date of realisation. There is no direction in the decree permitting computation of interest @ 7.5% on the decretal amount of Rs.2,01,21,875/- from 01.03.2020 till the date of decree as calculated by the petitioner. The calculation furnished by the decree holder cannot be accepted as it would amount to modifying and enlarging the decree which is beyond the jurisdiction of execution court.

11. It is pertinent here to note that if at all the decree holder is of the view that the decree does not correctly reflect the Judgment, the proper remedy for him would be to approach the Hon'ble Court which passed the decree for appropriate correction in accordance with law. But, here is a case where the decree holder instead of approaching the Hon'ble Court which passed the decree, insisted this executing court to read the decree along with Judgment and to accept his calculation of the interest @



7.5% from 01.03.2020 till the date of decree i.e.22.03.2024 on the decreed amount of Rs.2,01,21,875/- which cannot be entertained by this court. The Judgments relied on by the decree holder are not relevant to the facts of the present case, since in the case on hand the decree categorically quantifies the decreetal amount and separately grants future interest only @ 6% per annum from the date of decree till the date of realisation.

12. In view of the aforesaid discussion, the contention of the decree holder that the Judgment debtor is still liable to pay a balance sum of Rs.61,28,070/- as per his calculation is not acceptable and is rejected. Admittedly, during pendency of this execution petition the Judgment debtor has paid a sum of Rs.2,16,45,000/- which is the entire decreetal amount as per the decree dated 22.03.2024. In view of the same, this court is of considered opinion that the Judgment debtor has fully satisfied the decree dated 22.03.2024 and so this execution petition is liable to be dismissed.

In the result, this Execution petition is dismissed. The attachment is raised and the Registry is directed to intimate the same to the concerned Sub Registrar Office.

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