

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO.13383 OF 2021**

Samruddhi Sugar Limited  
and others

.... Petitioners

Versus

Hindustan Gunny Bags and Allied Suppliers  
and others

.... Respondents

.....  
Mr. Yuvraj V. Kakade, Advocate for the Petitioners  
Mr. Subodh P. Shah, Advocate for Respondent No.2  
.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 03<sup>rd</sup> AUGUST, 2023**

**ORDER :**

1. Leave to correct the prayer clause.
2. The petitioners are aggrieved by orders by the learned 10<sup>th</sup> Joint Civil Judge, Senior Division, Aurangabad, below Exhibits-38 and 42 in Special Darkhast No.88 of 2018.
3. The respondents/deed holders filed Special Darkhast for execution of judgment and decree passed in Special Civil Suit No.34 of 2015 against the petitioners/judgment debtors for recovery of an amount of Rs.33,89,909/- along with interest. In the said execution

proceeding, application Exhibit-32 seeking attachment of immovable properties of the petitioners/judgment debtors is filed by the respondents/decreed holders. The said application was allowed. Thereafter, application Exhibit-37 was filed for re-issuance of attachment warrant. The said application is also allowed by the Executing Court by order dated 09/10/2021.

4. The Petitioners/judgment debtors filed application Exhibit-38 seeking stay to the further process of attachment of properties, contending that the immovable properties sought to be attached are already mortgaged with other financial institutions and hence they cannot be attached. After hearing the parties, the said application is rejected. The Executing Court has partly allowed the application Exhibit-42 filed by the respondents/decreed holders for re-issuance of attachment warrant along with police aid. Both the orders passed below Exhibits-38 and 42 are impugned in the present petition.

5. Heard the learned advocate for the petitioner and the learned advocate for respondent No.2. Perused the writ petition memo, annexures thereto, and the impugned orders.

6. Learned advocate for the petitioners submits that since the properties sought to be attached are already mortgaged with other financial institutions, in their absence, and without hearing them, those properties are not liable to be attached.

7. The Executing Court has rightly rejected the application holding that, if at all the financial institutions have any grievance in respect of attachment, they will approach the Executing Court for removal of attachment.

8. The Executing Court has passed a well reasoned order holding that the petitioners/judgment debtors are not entitled to claim that the properties to be attached are mortgaged with the other financial institutions, therefore, without hearing them, those properties should not be attached. The decree is passed in the year 2016 and is yet to be executed. There is no illegality or perversity in the order impugned in the petition. The writ petition being devoid merit is dismissed.

**[ NITIN B. SURYAWANSHI ]**  
**JUDGE**

S.P Rane