



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO. 3984 OF 2022**

(SMT. SULOCHANA RAMESH PANCHBHAI THR. POA..VS.. SMT. SUNITA JAYPRAKASH RATHI)

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Shri R.D.Bhuibhar, Advocate for Petitioner.  
Shri Rohan Dhawad, Advocate for Respondent

**CORAM : ANIL S. KILOR, J.**  
**DATED : NOVEMBER 29, 2023.**

1. Heard.
2. The order dated 18/06/2022 passed below Exh.15 by 5<sup>th</sup> Joint Civil Judge Senior Division, Nagpur in Special Darkhast No.85 of 2020, rejecting the application moved by the Petitioner/ Judgment Debtor to recall the order of attachment and to stay the execution proceedings, is the subject matter of challenge in this writ petition.
3. The whole controversy involved in the present petition is in respect of the interest payable by the Judgment Debtor over the decretal amount.
4. From the paragraph 5 of the impugned order it is evident that though the learned executing Court directed the Judgment Debtor to refund the amount of Rs.28,11,000/- with interest prevailing in the nationalized bank from the institution of the suit till its realization and

though the Decree Holder was directed to file necessary documents to show what shall be the prevailing interest rate as per the nationalized bank, the trial Court directed the Judgment Debtor to pay interest @ 14% per annum.

5. Admittedly, the Decree Holder has not filed any document as directed by the trial Court to show what is the prevailing interest rate as per the nationalized bank.

6. The petitioner has no grievance if the necessary inquiry as regards the prevailing rate of interest as per the nationalized bank is made and then only the Judgment Debtor is directed to pay the interest.

7. In the circumstances, it is apparent on the face of the record that without any necessary inquiry or without seeking compliance of the directions issued to the Decree Holder to file necessary documents to show what shall be the prevailing interest rate as per the nationalized bank, the learned executing Court has directed to pay interest @ 14% per annum. In this backdrop, interest of justice would be sub-served by issuing appropriate directions to the executing Court.

8. Accordingly, I pass the following order:

i) The Writ Petition is partly allowed.

- ii) The impugned order dated 18/06/2022 passed by 5<sup>th</sup> Joint Civil Judge Senior Division, Nagpur in Special Darkhast No.85 of 2020 to the extent rejection of the objection of the petitioner regarding rate of interest, is set aside.
- ii) The matter is remanded back to the executing Court to determine the prevailing interest rate as per the nationalized bank, payable by the Judgment Debtor on the decretal amount, after hearing both the parties.

The Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE