



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 8207 OF 2023**

NAZIM MOHAMMED HAROON QURESHI
VERSUS

NARAYAN SHESHRAO GAVHANE THR GPA DATTATRAYA
MARUTIRAO KANADJE

...
Mr. Hamzakhan I. Pathan, Advocate for the Petitioner.
Mr. S. V. Dixit, Advocate for Respondent.

...
**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 05th AUGUST, 2025.**

P.C.:-

1. The present writ petition takes exception to order dated 16.07.2022 passed below Exhibits 25, 27 and 31 in Regular Darkhast No.46/2019 pending before Civil Judge Senior Division, Aurangabad.
2. The petitioner is judgment debtor. In pursuance to judgment and decree dated 26.10.2018 passed in Regular Civil Suit No.896/2015 he is permanently restrained from interfering in possession of respondent over suit property. The respondent/plaintiff filed Regular Darkhast No.46/2019 alleging that petitioner has infringed injunction order and caused interference in his peaceful possession. Accordingly, sought issuance of arrest warrant under Order XXI Rule 37 of Code of Civil Procedure.
3. The learned Executing Court issued show cause notice vide order dated 04.10.2019 as to why arrest warrant shall not be issued

against him. The petitioner appeared in pursuance of said notice. However, he did not file any reply to show cause notice. Eventually, vide order dated 10.12.2019, Executing Court directed issuance of arrest warrant for detention of petitioner for the period of seven days. Similarly, respondent filed another application below Exhibit-13 for attachment of property, which was also allowed by order dated 09.07.2019. The petitioner then filed application below Exhibit-25 for setting aside arrest warrant and application below Exhibit-27, sought opportunity to lead evidence. The learned Executing Court rejected petitioner's applications filed below Exhibits 25, 27 and 31 by impugned orders dated 16.07.2022.

4. It appears that, this Court while issuing notice to respondent vide order dated 12.07.2023, stayed impugned orders of attachment warrant and arrest warrant, on condition that petitioner shall file an undertaking before Executing Court within period of one week that he will not disturb possession of respondent over suit property. The petitioner has accordingly filed such undertaking before Executing Court. Since the date of filing of undertaking, no breach of injunction has been reported to this Court by respondent. Apparently, purpose of enabling provisions under Rules 32 to 37 of Order XXI of Code of Civil Procedure is to secure sanctity of decree and protect rights of decree holder.

5. In present case, respondent had alleged breach of injunction by petitioner in the year 2019, which lead to issuance of arrest warrant. However, since the date of filing of undertaking in pursuance to directions by this Court, no breach has been reported. In that view of matter, writ petition can be disposed of in following terms:

- a. Writ Petition is allowed in terms of prayer Clause (B) subject to condition that petitioner files fresh undertaking before Executing Court that he will abide by decree of permanent injunction passed in Regular Civil Suit No.896/2015 and shall not disturb enjoyment and peaceful possession of respondent over suit property. Such an undertaking to be filed within period of eight days from the date of this order.
- b. In case petitioner commits breach of undertaking or violates injunction order, respondent shall be at liberty to file application for issuance of arrest warrant or attachment of property of petitioner, which shall be considered on its own merits.
- c. In view of aforesaid directions, Writ Petition stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE