



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

919 WRIT PETITION NO. 11275 OF 2022

DINESH PANDURANG BAGLE

VERSUS

HUSMUKH BHOGILAL SHAH AND OTHERS

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Advocate for the Petitioner : Mr. Thombre Bhagwan V.

Advocate for Respondent no.1 : Mr. Savale Amit S.

Advocate for Respondent No.4: Mr.Ubale Mahesh B.

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CORAM : ROHIT W. JOSHI, J.

DATED : 12th June, 2025

PER COURT :

1. The present petition arises out of Special Darkast No.31/2016. The petitioner is a judgment debtor. Respondent is decree holder.

2. The respondent had filed a suit against the petitioner, being Special Civil Suit No.111/2014. The parties had arrived at out of Court settlement, pursuant to which the consent decree came to be passed in the said suit. Under the consent decree, the judgment debtor submits that he had received a sum of Rs.22,00,000/- from the plaintiff and in lieu of payment of said amount, he agreed to transfer the properties mentioned at page no.40 in favour of the decree holder. However, the judgment debtor failed to transfer these properties in favour of the decree holder as compromised under the compromise deed, as a consequence of which, the aforesaid execution proceedings were initiated. In the said execution proceedings, the decree holder

filed an application dated 12th April, 2017 vide Exhibit-28/D seeking attachment of properties of the judgment debtor for recovery of amount of Rs.22,00,000/-. The learned Executing Court has allowed the said application vide order dated 04.09.2017. The said order of attachment is challenged in the present writ petition.

3. The properties other than the properties, which are agreed to be transferred by the judgment debtor to the decree holder, are ordered to be attached. The prayer for attachment of properties is made stating that the properties are required to be attached to enable the decree holder to recover amount of Rs.22,00,000/- as per compromise deed.

4. Perusal of the compromise decree demonstrates that the said decree is not for payment of money, it is decree for transfer of property against the amount of Rs.22,00,000/-.

5. The order impugned by which the properties of the judgment debtor are ordered to be attached in order to enable the decree holder to recover the amount of Rs.22,00,000/- is unsustainable and is therefore quashed and set aside. In view of the aforesaid, Writ Petition is allowed. No orders as to costs.

[ROHIT W. JOSHI]
JUDGE

sga/