



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

915 WRIT PETITION NO. 2120 OF 2024

Dilip Subhash Giriba & othersPetitioners

VERSUS

Osmanabad Janta Sahakari BankRespondent

.....

Mr. R. D. Khadap, Advocate for the Petitioners.

Mr. S.B. Choudhari, Advocate for the Respondent.

WITH
WRIT PETITION NO. 2179 OF 2024

Dilip Subhash Giriba and othersPetitioners

versus

Osmanabad Janta Sahakari BankRespondent

.....

Mr. R. D. Khadap, Advocate for the Petitioners.

Mr. S.B. Choudhari, Advocate for the Respondent.

CORAM : R. M. JOSHI, J.

DATE : 29th APRIL, 2025.

PER COURT :

1. These petitions take exception to order dated 29.09.2023 passed below Exhibit 17 wherein application filed by decree holders for attachment of properties of judgment debtor came to be allowed.

2. Learned counsel for Petitioners/decreed holders takes exception to the order impugned on the ground that it is unreasoned order and the same has been passed without according an opportunity of hearing to the Petitioners.
3. Learned counsel for Respondent/decreed holder supported the impugned order with the contention that before passing such order it was only necessary for the Execution Court to ascertain whether the decree is satisfied or not.
4. There cannot be any dispute with regard to the fact that it is open for the Execution Court to pass order of attachment of property provided there is non satisfaction of the decree and that there is some evidence in the form of affidavit indicating that the property sought to be attached belongs to the judgment debtor. So also, at the time of passing such order, some findings are required to be recorded by the Court.
5. Perusal of the impugned order does not indicate any findings recorded by the Execution Court with regard to non-satisfaction of the decree or the subject properties being properties of

the judgment debtors/Petitioners herein in order to cause attachment to the same. Since the order is unreasoned the same is set aside. Application Exhibit 17 is relegated back to the Execution Court for decision afresh. Execution Court to give an opportunity of hearing to the judgment debtor before passing order.

(R. M. JOSHI)
Judge

dyb