

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16953 OF 2024**

Suparna Ramesh Kaduskar & Ors ..Petitioners
Versus
Girija Promoters And Builders & Ors ...Respondents

Ms. Divya Parab, h/f Harshad Garud, for the Petitioner.

**CORAM: N. J. JAMADAR, J.
DATED : 26th FEBRUARY 2025**

P.C.:

1. Heard learned Counsel for the petitioner.
2. The challenge in this Petition is to an Order dated 14th June 2024 passed by the learned Civil Judge, Junior Division, Pimpri, Pune, whereby the executing Court refused to order attachment of Flat Nos. 101 and 102 in pursuance of the decree passed in RCS No. 222 of 2012.
3. A possession warrant was issued in pursuance of the decree passed in RCS No. 222 of 2012 in RD No. 8 of 2023.
3. The Bailiff submitted a report that Flat Nos. 9 and 10, in respect of which the said decree was passed, were not found on the first floor of the said building. Hence as the description of the property did not correspond, the possession warrant was returned unexecuted.

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Thereafter, the petitioner preferred an Application to attach Flat Nos. 101 and 102 under the Provisions of Order XXI Rule 54 of the Code of Civil Procedure 1908.

4. The learned Civil Judge, was persuaded to reject the Application observing *inter alia* that the description of the property did not correspond and the executing Court cannot go behind the decree. The learned Civil Judge, further, noted that Appeal was pending against the decree which was passed in RCS No. 222 of 2012 and in the said Appeal, the parties can seek appropriate reliefs.

5. Evidently, the description of the property in the decree has not been amended. In this view of the matter, the learned Civil Judge was correct in rejecting the Application. An appropriate remedy for the petitioner is to seek amendment in the decree.

6. Keeping open the liberty to avail appropriate remedy, the Petition stands disposed.

[N. J. JAMADAR, J.]