



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

WRIT PETITION NO.519/2025

Rambhau Daulatrao Patil and anr. .Vs. Ajay Manakchand Bilala, Proprietor of Paras
Corproation, Akola thr. P.O.A. Vijay Manakchand Bilala and Ors.

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

Court's or Judge's orders

Mr. K. R Giripunje, Advocate instructed by Dr. Mrs. R. S. Sirpurkar,
Advocate for petitioners.

CORAM : ANIL L. PANSARE, J.

DATE : JULY 11, 2025

On 09.04.2025, following order was passed.

"It appears that without settling terms of proclamation of sale in terms of Rule 66 of Order 21 of the Code of Civil Procedure, 1908, the executing Court has issued order to publish proclamation.

On 29-1-2025, notice was issued on petition as well as on interim relief. None appeared for the respondents though served.

In order to give one more opportunity to the respondents, list the petition in the week commencing from 5-5-2025.

In the meantime, there shall be interim relief in terms of prayer clause iii(b) which reads as under.

"iii(b) : Grant stay to the effect operation and implementation to Sale Proclamation (Annexure-18) passed by Ld. 9th Jt. Civil Judge Senior Division, Akola during the pendency of present petition."

It is noticed that the money decree is of April, 2017 and is not honoured by the petitioners till today. The petitioners shall, therefore, state as to what steps were taken to pay the decretal amount.

The petitioners shall comply with the practice note no. 14 of the Bombay High Court Appellate Sides Rules, 1960; particularly Clause (5) thereof."

2. In response to the said order, counsel for the petitioners submitted that since the petitioners challenged the decree

before the First Appellate Court and since the same is pending adjudication at Akola, the petitioners did not take steps to pay decretal amount.

3. As noted in order dated 04.04.2025, none appeared for respondents though served. None appeared for them today as well. Thus, what has been argued by the petitioner as regards proclamation of sale without settling the terms of the proclamation as required under Order XXI Rule 66 of the CPC, remained unchallenged.

4. Counsel for the petitioners has invited my attention to clauses (a), (b) and (c) of Sub Rule (2) of Rule 66, which read thus:

66. Proclamation of Sales by public auction -

(1) ...

(2) Such proclamation shall be drawn up after notice to the decree-holder and the judgment-debtor and shall state the time and place of sale, and specify as fairly and accurately as possible—

(a) the property to be sold or, where a part of the property would be sufficient to satisfy the decree, such part;

(b) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate or in part of an estate paying revenue to the Government;

(c) any incumbrance to which the property is liable.”

5. He submits that in terms of aforesaid clauses, the proclamation is to be drawn by specifying whether part of property, if sold, would be sufficient to satisfy the decree. Counsel further submits that the proclamation should contain whether or not there is encumbrance to which the property is liable. According to the petitioners, these details have been not mentioned in the proclamation. Accordingly, it is argued, and rightly so, that the proclamation of sale lacks essential ingredients.

6. Learned counsel for the petitioners submits that the sale proclamation published in March, 2025 is not yet acted upon.

7. That being so, order 01.01.2025 passed by 9th Jt. Civil Judge Senior Division, Akola in Special Darkhast No. 23/2017 and proclamation issued pursuant thereto is unsustainable and accordingly quashed and set aside. The matter is remanded back to the Executing Court for consideration afresh in accordance with law and in the light of what has been stated in the body of the order. The Executing Court shall issue proclamation in terms of provisions of the CPC and proceed to recover the amount due and payable by the petitioners.

8. The petition is disposed of in above terms. No order as to costs.

(Anil L. Pansare, J.)

Kahale