(2026:JHHC:26772)

IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No.1192 of 2025
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1. Shankar Lal Gupta, aged about 47 years, S/o Late Mohan Lal Gupta;
2. Vikash Kumar Gupta, aged about 44 years, S/o Late Mohan Lal Gupta;

Both residents of Dalpatti, Church Road, Ranchi, P.S.-Previously Lower Bazar now Daily Market, P.O.-G.P.O., District-Ranchi, Jharkhand, PIN-834001.

… Petitioners

Versus

Smt. Rajeshwari Devi, wife of Late Sheo Prasad Gupta, Resident of Main Road, Near Public Urdu Library, P.O. & P.S.-Lower Bazar, District-Ranchi, Jharkhand, PIN-834001.

… Opposite Party

For the Petitioners : Mr. Pratyush Kumar, Advocate
: Mr. Vishwajeetjee Chaturvedi, Advocate
: Mr. Taru Gupta, Advocate
: Mr. Prashant Kumar, Advocate

For the OP : Mr. Amar Kr. Sinha, Sr. Advocate
: Mr. Sachin Verma, Advocate
: Mr. K.K. Ambastha, Advocate
: Mr. Abdul Wahab, Advocate
: Mr. Sumit Kumar, Advocate
: Mr. Ayush Raj, Advocate
: Mr. Ujjal Chatterjee, Advocate

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Civil Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Article 227 of the Constitution of India with the prayer to quash and set aside the order dated 22.11.2025 passed by the learned Civil Judge, Senior Division-XIV, Ranchi in MCA No.859 of 2024 arising out of Execution Case No.35 of 2023 whereby and where under the learned Civil Judge, Senior Division-XIV, Ranchi dismissed the petition filed by the petitioners under Order XXI, Rules 97, 99 & 101 of the Code of Civil Procedure consequent upon the failure of the petitioners to show any convincing document in order to show their interest; within the purview of the said provision and also did not accede to the prayer of the petitioners to exercise its power under Section 151 of CPC in view of the express provision provided under Order XXI of the CPC.

3. Learned counsel for the petitioners fairly submits that the learned Court below has formulated the following questions in the said in MCA No.859 of 2024: -

> *(a) Whether the executing court can go beyond the decree?*
> (b) *Whether the petitioners are resisted and obstructed by DHr and are having right, title and interest in the decretal property?*

4. At the outset, a preliminary objection was raised by the learned Senior counsel for the opposite party regarding maintainability of the appeal.

5. Learned senior counsel for the opposite party submits that since the application has been adjudicated in exercise of the power vested by Order

XXI, Rule 98 of the Code of Civil Procedure; in view of Order XXI, Rule 103 of the Code of Criminal Procedure, the impugned order has the same force as that of a decree and hence be subject to same condition as to an appeal, so an appeal will lie against the impugned order, therefore, the application invoking the jurisdiction of this Court under Article 227 of the Constitution of India is not maintainable.

6. Learned counsel for the petitioners relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Sameer Singh & Another vs. Abdul Rab and Others** reported in **(2015) 1 SCC 379**, and submits that in para-26, the Hon'ble Supreme Court of India has held that the Rule 103 of Order XXI clearly stipulates that when an application is adjudicated upon under Rule 98 or Rule 100, the said order shall have the same force as if it was a decree and if an executing court only expresses its inability to adjudicate by stating that it lacks jurisdiction, then the status of the order has to be different and in the facts of that case as the executing court has expressed an opinion that it has become *functus officio* and hence, it cannot initiate or launch any enquiry, the appellants had invoked the jurisdiction of the High Court under Article 227 of the Constitution of India.

7. Learned counsel for the petitioners next submits that since the executing court has answered the first question for determination by holding that the executing court cannot go beyond the decree and has not recorded any evidence of the parties, it amounts to the lack of jurisdiction of the executing court, hence, it is submitted that this C.M.P. invoking the

jurisdiction of this Court under Article 227 of the Constitution of India is maintainable.

8. Learned senior counsel for the opposite party, in this respect, relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Silverline Forum Pvt. Ltd. vs. Rajiv Trust and Another** reported in **1998 SAR (Civil) 288**, paragraph-14 of which reads as under:-

> *14. It is clear that the executing court can decide whether the resister or obstructor is a person bound by the decree and he refuses to vacate the property. That question also squarely falls within the adjudicatory process contemplated in Order 21 Rule 97(2) of the Code. The adjudication mentioned therein need not necessarily involve a detailed enquiry or collection of evidence. The court can make the adjudication on admitted facts or even on the averments made by the resister. Of course, the court can direct the parties to adduce evidence for such determination if the court deems it necessary. (Emphasis supplied)*

and submits that therein it has categorically been mentioned that the adjudication contemplated under Order XXI, Rule 97(2) of the Code of Civil Procedure need not necessarily involved a detailed enquiry or collection of evidence, but still, it can be an adjudication under Order XXI, Rule 98 of the Code of Civil Procedure; so there is no force in the contention of the petitioner, that merely because no evidence has been recorded, the same will not be an adjudication under rule 98 of the order XXI, of the Code of Civil Procedure.

9. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that it is a settled principle of law that an executing court cannot go beyond the decree and the same is also fairly

submitted by the learned counsel for the petitioners, so the main question in controversy between the parties was the question no.(b) and the same has been answered by the learned Executing Court by holding that the petitioners herein who were also the petitioners before the learned Executing Court could not show any convincing document in order to show their interest within the purview of Order XXI, Rule 97, 99 & 101 of the Code of Civil Procedure, hence, in the considered opinion of this Court, this is not a case where the Executing Court has expressed its inability to adjudicate rather it has adjudicated and gave a finding against the petitioners, albeit without recording an evidence. So, in view of the principle of law settled in both in the case of **Silverline Forum Pvt. Ltd. vs. Rajiv Trust and Another (supra)** and **Sameer Singh & Another vs. Abdul Rab and Others (supra),** since an adjudication has been made under Order XXI Rule 98 of the Code of Civil Procedure, the impugned order shall have the same force as if it is a decree and an appeal will lie. Therefore, this Court is not inclined to exercise its power under Article 227 of the Constitution of India in this case.

10. Accordingly, this C.M.P., is dismissed being not maintainable.

11. In view of the dismissal of this C.M.P., the interim relief granted, if any, is vacated.

12. Registry is directed to intimate the Court concerned forthwith.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 03rd of September, 2026
AFR/ Abhiraj

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