IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No.181 of 2026

The Jharkhand State Housing Board through the Secretary namely Binay Manish R. Lakra, S/o Late Marcus Lakra aged about 54 years, having its office at Harmu Housing Colony, P.O. Harmu & P.S.: Argora, District- Ranchi 834002.

… Petitioner

Versus

1. Laxmi Devi W/o Late Kunwar Ram Rajak;
2. Sona Ram Rajak S/o Late Kunwar Ram Rajak;
3. Dinesh Ram Rajak S/o Late Kunwar Ram Rajak;

All residents of Lake Road, Hindpiri, Tilu Nazir Lane P.O. G.P.O., P.S. Hindpiri, District- Ranchi-834001.

… Opposite Parties

For the Petitioner :Mr. Sachin Kumar, Advocate.
For the Opposite Parties : Mr. Vibhor Mayank, Advocate.
Mr. Tarun Kr. Mahato, Advocate.
Mr. Roshan Kr. Singh, Advocate.

P R E S E N T
HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- **I.A. No.9737 of 2026**

Heard the parties.

Learned counsel for the petitioner submits that this interlocutory application has been filed to permit the petitioner to delete the opposite party no.1 namely -Laxmi Devi from the array of opposite parties in C.M.P. No.181 of 2026 arising out of Execution Case No. 26 of 2025 as she has left for her heavenly abode during the pendency of the proceeding and there are only two remaining opposite parties.

Learned counsel for the opposite parties has raised no objection.

Considering the aforesaid facts, the prayer is allowed.

Registry is directed to delete the name of the opposite party no.1 namely Laxmi Devi and renumber the opposite party no.2 and 3 as opposite party nos. 1 and 2 with red ink.

Accordingly, this interlocutory application allowed.

(Anil Kumar Choudhary, J.)

I.A. No.11795 of 2026

Heard the parties.

Learned counsel for the opposite parties submits that this interlocutory application has been filed with the prayer to dispose of this C.M.P. 181 of 2026 as the prayer made in same has become infructuous in light of the order dated 01.08.2026 passed by the learned Additional Civil Judge, Junior Division, XIII Ranchi in Execution Case No. 26 of 2025 whereby the execution case has been disposed of on full satisfaction because of delivery of possession has been made to the decree-holder.

Learned counsel for the opposite parties further submits that this C.M.P. has been filed with the prayer for setting aside the order dated 02.12.2025 passed by the learned Civil Judge, (Junior Division) Ranchi in M.C.A. No. 478 of 2025 arising out of Execution Case No. 26 of 2025; but since the learned Additional Civil Judge, Junior Division, XIII Ranchi in Execution Case No. 26 of 2025 directed the judgment-debtor to put the suit property into the

possession of the decree holder through, the writ of delivery of possession and in view of the delivery of possession having already been effected and the Execution Case No. 26 of 2025, having attained finality and stood disposed of on full satisfaction vide order dated 01.08.2026, the prayer of the present C.M.P. No. 181 of 2026 has been rendered infructuous. Hence, it is prayed that the present C.M.P. 1818 of 2026 be disposed of in light of the order dated 01.08.2026 passed by learned Additional Civil Judge (Junior Division)-XIII, Ranchi in Execution Case No. 26 of 2025.

The learned counsel for the petitioner vehemently opposes the prayer of the opposite parties and submits that since this Civil Miscellaneous Petition has been filed with the prayer to set aside the order dated 02.12.2025 passed by learned Civil Judge (Junior Divisional), Ranchi in M.C.A. No. 478 of 2025 arising out of Execution Case No. 26 of 2025 whereby and whereunder the learned Executing Court has dismissed the petition filed under Order XXI Rule 97 read with Section 151 of the Code of .Civil Procedure; in case this Civil Miscellaneous Petition is allowed, then the Execution Case No. 26 of 2025 is to be reopened, hence the prayer made in this Civil Miscellaneous Petition has not become infructuous with disposal of the said Execution Case No. 26 of 2025.

Considering the facts of the case, as the matter is ready for hearing, this Court is of the considered view that in case the order dated 02.12.2025 passed by learned Civil Judge (Junior Division),

Ranchi in M.C.A. No. 478 of 2025 arising out of Execution Case No. 26 of 2025 is set aside, there is scope for quashing of the subsequent orders passed after the said order dated 02.12.2025 passed by learned Civil Judge (Junior Division), Ranchi in M.C.A. No. 478 of 2025 arising out of Execution Case No. 26 of 2025; hence this Court inclined to hear this Civil Miscellaneous Petition.

Accordingly, this interlocutory application is rejected.

(Anil Kumar Choudhary, J.)

C.M.P. No.181 of 2026

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 set aside the order dated 02.12.2025 passed by learned Civil Judge (Junior Division), Ranchi in M.C.A. No. 478 of 2025 arising out of Execution Case No. 26 of 2025 whereby and whereunder the learned Executing Court has dismissed the petition filed under Order XXI Rule 97 read with Section 151 of the Code of Civil Procedure by observing that under Rule 97, it is only the 'decree-holder' who is entitled to make an application, in case where he is offered resistance or obstruction by 'any person' and since as admitted by the petitioner itself that he is not the decree-holder, therefore, it is obvious that the petitioner cannot take

shelter of Rule 97 as stated above to raise objections against execution of decree.

3. It is submitted by the learned counsel for the petitioner that the Execution Case No. 26 of 2025 was filed in respect of execution of the judgment and decree dated 13.07.2006 passed in Title Suit No. 174 of 1993 by the learned Sub-Judge-II Ranchi; consequent upon dismissal of the Title Appeal No. 114 of 2026 preferred by the defendants of the said suit, by the judgment dated 06.06.2008 passed by the A.J.C. XVII, Ranchi. The petitioner contended before the learned Executing Court that all the right, title and interest over the suit property of Title Suit No. 174 of 1993, exclusively belongs to the petitioner. It is next submitted that both the parties of the Title Suit No. 174 of 1993 knew pretty well that the petitioner is the owner of the property and the petitioner was the necessary party to Title Suit No. 174 of 1993, but even then, none of them made any effort to implead the petitioner as party to the said suit.

4. It was next submitted that in respect of another dispute, Title Suit No. 553 of 2011 has been filed wherein the pleadings are in contradiction with the case of the parties herein. It was also pleaded that as per the order passed by this Court in C.W.J.C. No. 1496 of 1996 (R), some portion of land of the petitioner has been given to Whole-seller Fruit Merchants at Harmu including the land in question and at present there is Whole-sale Fruits Mandi established thereon. The petitioner prayed for staying the

execution proceeding and admit the application after hearing the parties. The petition filed by the petitioner was objected to by the decree holder and the decree holder claimed that the suit land is still recorded in Register-II of HEHAL Circle Office, in the name of Shibu Ram Dhobi who is since deceased and *Malgujari* is being paid in his name.

5. The learned Civil Judge (Junior Division) Ranchi relied upon para 24 of the judgement of the Hon'ble Supreme Court of India in the case of ***Sri Ram Financing Housing Investment (India) Limited versus Omesh Mishra Memorial Charitable Trust*** reported in **(2022) 15 SCC 176** wherein the Hon'ble Supreme Court of India reiterated the settled principle of law that it is only the 'decree holder' who is entitled to make an application in case where he is offered resistance or obstruction by 'any person' and as the petitioner is not the decree holder, therefore, it was held that the petitioner cannot take shelter of Order XXI, Rule 97 of the Code of Civil Procedure and dismissed the said petition.

6. It is further submitted by the learned counsel relying upon the judgment of Hon'ble Supreme Court of India in the case of ***Jini Dhanrajgir and Another versus Shibu Mathew and Another*** reported in ***(2023) 20 SSC 76,*** wherein, the Hon'ble Supreme Court of India relied upon its own judgment in the case of ***Silverline Forum (P) Ltd. v. Rajiv Trust*** reported in ***(1998) 3 SCC 723*** which judgment was also relied upon by the Hon'ble Supreme Court of

India in the Case of ***Sriram Housing Finance & Investment (India) Ltd. v. Omesh Mishra Memorial Charitable Trust (Supra)*** wherein Hon'ble Supreme Court of India found it difficult to agree with the High Court that resistance or obstruction made by a third party to the decree put to execution cannot be gone into under Order XXI Rule 97 of the Code of Civil Procedure.

7. The learned counsel for the petitioner further relied upon the judgment of this Court in the case of ***Bhim Munda versus The State of Jharkhand & Others*** reported in ***2024:JHHC:3954*** wherein this Court relying upon the judgement of the Hon'ble Supreme Court of India in the case of ***Rajasthan State Industrial Development & Investment Corpn. V. Subhash Sindhi Coop. Housing Society, Jaipur & Others*** reported ***(2013) 5 SCC 427,*** quoted paragraph 13 of that and referred to the settled principle of law that a purchaser subsequent to the issuance of a Section 4 notification in respect of the land, cannot challenge the acquisition proceedings, and can only claim compensation as the sale transaction in such a situation is void qua the Government. Hence, it is submitted that the prayer as prayed for in this Civil Miscellaneous Petition be allowed.

8. The learned counsel for the opposite parties at the outset raised a preliminary objection that this Civil Miscellaneous Petition under Article 227 of the Constitution of India is not maintainable because in view of Rule 103 of Order XXI of the Code of Civil Procedure adjudication of an application under Rule 98 or Rule 100 have the

same force and the subject to same condition; hence, an appeal will lie against the impugned order. It is further submitted by the learned counsel for the opposite parties that the undisputed facts remains is that the judgment of the Hon'ble Supreme Court of India in the Case of ***Sriram Housing Finance & Investment (India) Ltd. v. Omesh Mishra Memorial Charitable Trust (Supra)*** has not been overruled and still holds the field and in that judgment it has categorically been held that it is only the decree holder who can file an application under Order XXI, Rule 97 of the Code of Civil Procedure. A different view may be possible, but this Court in its limited jurisdiction under Article 227 of the Constitution of India in the absence of any grave illegality or impropriety being committed, ought not to interfere with the impugned order. It is further submitted that in the meanwhile the Execution Case No. 26 of 2025 has already been disposed of on full satisfaction of delivery of possession and hence there is no scope to entertain the said application on the part of the petitioner as the prayer has become infructuous with the disposal of Execution Case No. 26 of 2025 vide order dated 01.08.2026 on full satisfaction. It is next submitted that the decree has been executed without any resistance from any quarter, peacefully and it is also submitted that as has been held in the first two paragraphs of the judgment of ***Jini Dhanrajgir and Another versus Shibu Mathew and Another*** wherein the Hon'ble Supreme Court of India has quoted Privy Council judgement to the

effect that difficulties of litigants in India indeed begin when they obtain a decree and it is pretty well known though the litigation between the parties to the decree was going on since 1993 *i.e.*, for almost 33 years, but at no point of time, the petitioner ever thought it fit to get impleaded in the suit or the appeal and in order to frustrate the fruit of the decree to the decree-holder and to drag on litigation and deny the fruits of the decree to the decree-holder; at the behest of the judgement debtor, this frivolous petition has been filed. It is then submitted that the petition under Order XXI Rule 97 of the Code of Civil Procedure was filed without any entitlement for same by the petitioner hence, the same has rightly been rejected. The learned counsel for the opposite parties further submits that there being no illegality in the impugned order hence, this Civil Miscellaneous Petition being without any merit be dismissed.

9. Having heard the submissions made at the Bar and after going through the materials in the record, so far as the preliminary objection of the opposite parties that in view of an appeal being provided for in rule 103 of Order -XXI of the Code of Civil Procedure, this Court ought not to exercise its power under article 227 of the Constitution of India is concerned, it is pertinent to mention here that rule 103 of Order -XXI of the Code of Civil Procedure comes into operation where any application has been adjudicated upon under rule 98 of Order -XXI of the Code of Civil

Procedure. Adjudication under rule 98 of Order -XXI of the Code of Civil Procedure requires questions to be determined referred to in rule 101 of Order -XXI of the Code of Civil Procedure. Here admittedly the cooking Court has not made any adjudication in terms of rule 98 of Order -XXI of the Code of Civil Procedure, so in the considered opinion of this court no appeal shall lie, from the order impugned in this Civil Miscellaneous Petition in terms of rule 103 of Order -XXI of the Code of Civil Procedure. Therefore, there is no impediment for this Court to exercise its power under Article 227 of the Constitution of India. Accordingly, this preliminary objection raised by the opposite parties being without any merit is not entertained by this Court.

10. Now coming to the merits of this case, it is a settled principle of law that a decree passed in a suit is not binding upon a person who is not a party to a suit. This Court has no hesitation in holding that the decree passed in Title Suit No. 174 of 1993 passed by the Sub-Judge-II, Ranchi is not binding upon the petitioner. The undisputed fact remains that the decree has been executed and the execution case has been disposed of on full satisfaction of the decree without any resistance from any quarters. In paragraph nos. 22 to 24 of the judgment of Hon'ble Supreme Court of India in the case of ***Sriram Housing Finance & Investment (India) Ltd. v. Omesh Mishra Memorial Charitable Trust (Supra)*** which reads as under:-

> *"22. From a bare reading of the aforesaid provisions, it is clear that Order 21 Rule 97 deals with the resistance or*

obstruction to possession of immovable property by "any person" obtaining possession of the property against the decree-holder. It empowers the "decree-holder" to make an application complaining about such resistance or obstruction. On the other hand, Rule 99 of Order 21 deals with the right of "any person" other than the judgment-debtor who is dispossessed by holder of a decree for possession of such property or in case where such property is sold in furtherance of execution of a decree. The said provision vests "any person" with a right to make an application complaining about such dispossession of immovable property in the manner prescribed above. Rule 98 and Rule 100 deal with the power of the Court to pass appropriate orders upon an application preferred under Rule 97 and Rule 99 respectively.

23. Insofar as Rule 101 is concerned, it confers jurisdiction on the Court as well as casts an obligation to determine the questions relating to right, title or interest in the property, if any, arising between parties on an application made by the person concerned under Rule 97 or Rule 99 in the same proceedings for adjudication and not in a separate suit. Lastly, Rule 102 clarifies that Rule 98 and Rule 100 shall not apply in a case where resistance or obstruction in execution of a decree for the possession of immovable property is offered by "transferee pendente lite" i.e. the person to whom the property is transferred by the judgment-debtor after institution of the suit in which the decree sought to be executed was passed.

24. On conjoint reading of the aforesaid provisions, it can be observed that under Rule 97, it is only the "decree-holder" who is entitled to make an application in case where he is offered resistance or obstruction by "any person". In the present case, as admitted by the appellant itself, it is a bona fide purchaser of the property and not the "decree-holder". As available from the material placed on record, it is the respondent Trust along with legal heirs of late N.D. Mishra who are the decree-holders and not the appellant. Therefore, it is obvious that the appellant cannot take shelter of Rule 97 as stated above to raise objections against execution of decree passed in favour of the respondent. Further, Rule 99 pertains to making a complaint to the Court against "dispossession" of the immovable property by the person in "possession" of the property by the holder of a decree or purchaser thereof." (Emphasis supplied)

the Hon'ble Supreme Court of India has in no uncertain manner laid down the law that it is only the decree holder who can file the

application under Rule 97 of the Order XXI. It is needless to mention that the judgment of Hon'ble Supreme Court of India in the case of ***Sriram Housing Finance & Investment (India) Ltd. v. Omesh Mishra Memorial Charitable Trust (Supra)*** has not been overruled and consequently, the ratio of that judgement is a good law. There are other judgments which have been referred by the Hon'ble Supreme Court of India in the case of ***Jini Dhangrajgir & Another versus Shibu Mathew & Another (Supra)***, but the facts of those cases were different in the sense that in those cases, during the execution proceeding, the execution proceeding was resisted by the parties unlike in this case where without any practical resistance of the petitioner, the decree has already been executed on full satisfaction. So, under such circumstances, this Court do not find any illegality or impropriety on the part of learned Civil Judge, (Junior Division) on relying upon the judgment of ***Sriram Finance Housing Investment (India) Limited versus Omesh Memorial Charitable Trust (Supra)*** to dismiss the application filed by the petitioner under Order XXI, Rule 97 of the Code of Civil Procedure as the petitioner is not the decree-holder. May be a different view is also there, but this Court is conscious of its limited jurisdiction under Article 227 of the Constitution of India and in this respect it is relevant to refer to para 36 of the judgment of the Hon'ble Supreme Court of India reported in the case of ***Nandi Infrastructure Corridor Enterprises Ltd. and Another versus B. Gurappa Naidu and Other***

reported in ***(2026) SCC OnLine SC 745*** para 36 of which read as under:-

> *"36. Applying the aforesaid principles to the facts of the present case, we are of the considered view that the High Court has exceeded the jurisdiction vested in it under Article 227 of the Constitution of India. We say so for the following reasons:*
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> *36.1. Firstly, the power of superintendence under Article 227 of the Constitution can be exercised where there is an unwarranted assumption of jurisdiction by a court not vested with such jurisdiction, or in cases of gross abuse of jurisdiction. In the present case, it is evident from the record that the Executing Court was duly vested with jurisdiction to deal with the matter, and no case of gross abuse of jurisdiction is made out. On this ground, the High Court could not to have exercised its jurisdiction under Article 227.*
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> *36.2. Secondly, the power of superintendence may be invoked where there is an unjustifiable refusal to exercise jurisdiction vested in a court. In the present case, the Executing Court did exercise the jurisdiction conferred upon it. Consequently, no occasion arose for the High Court to invoke its jurisdiction under Article 227 of the Constitution on this ground.*
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> *36.3. Thirdly, the High Court, while exercising jurisdiction under Article 227 of the Constitution, could not have acted as an appellate court or substitute its own judgment for that of the subordinate court to correct an error which was not apparent on the face of the record. In the present case, while considering the petition filed by N.I.C.E. under Article 227, the High Court ought to have borne in mind that this Court, in the earlier round of litigation, had specifically directed the Executing Court to determine the guideline value of the property and accordingly the Executing Court had determined the value of the land. In our considered opinion, the High Court travelled beyond the limits of its jurisdiction under Article 227 while adjudicating the writ petition filed by N.I.C.E. and we say so for the following reasons:*
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> *36.3.1.While exercising its jurisdiction under Article 227 of the Constitution, the High Court had a limited scope of interference with the order passed by the Executing Court. What the High Court has done in the present matter is precisely what may be characterised as acting in the capacity of an Appellate Court, which is impermissible in the exercise of supervisory jurisdiction under Article 227. Firstly, while exercising jurisdiction under Article 227, the High Court belatedly impleaded the State Government to resolve an issue relating to the interpretation of the manner in which the guideline value was to be determined. In our considered opinion, such impleadment ought not to have been resorted to, for the reason that the lis*

throughout was between private parties and arose solely out of a compromise decree.

36.3.2. Secondly, the High Court, in effect, called upon the State Government to file an affidavit seeking clarification on the interpretation of the notification. Although the High Court ultimately rejected the report submitted by the State, it nonetheless accepted the State's clarification with regard to the interpretation of the notification and proceeded to act upon the same. In substance, the High Court permitted the State to interpret its own notification and thereby influence a lis exclusively between private parties. The State was thus placed in the position of being a rule-maker, interpreter, and adjudicator of its own notification simultaneously, all while the High Court was exercising its jurisdiction under Article 227 of the Constitution. Such an approach, in our considered view, is impermissible. The executive cannot be allowed to explain away or reinterpret a statutory instrument during the course of litigation to the prejudice of one of the parties.

36.3.3. Thirdly, the High Court accepted the interpretation advanced by the State solely on the ground that an alternative interpretation of the notification was possible. By doing so, the High Court substituted its own view for that of the Executing Court, thereby exhibiting the conduct of an Appellate Court rather than that of a court exercising supervisory jurisdiction under Article 227 of the Constitution.

36.3.4. Fourthly, at the very least, the interpretation, adopted by the Executing Court constituted a plausible and reasonable view. In such circumstances, the High Court could not, in exercise of its supervisory jurisdiction under Article 227 of the Constitution, supplant that view with another interpretation, merely because such an alternative view was also possible. By exercising jurisdiction under Article 227 solely to demonstrate that another view was possible, the High Court, in effect, acted as an appellate court, which is impermissible in law.

36.4. Therefore, in our considered opinion, the High Court, while exercising its jurisdiction under Article 227 of the Constitution, travelled beyond the limits of the narrow and circumscribed scrutiny permissible under the said provision, in direct contravention of the principles set out in paragraph 35 of this judgment." (Emphasis supplied)

11. Under such circumstances, in view of the discussion made above, this Court is of the considered view that this is not a fit case where this Court accede to the prayer of the petitioner made in this Civil

Miscellaneous Petition in exercise of its power under Article 227 of the Constitution of India.

12. Accordingly, this Civil Miscellaneous Petition being without any merit is **dismissed**.

13. In view of the disposal of this Civil Miscellaneous Petition, pending I.A., if any is disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated /- 01.09.2026
AFR/ Amar

Uploaded on- 14/09/2026