Suzana

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.92 OF 2026
WITH
MISCELLANEOUS CIVIL APPLICATION NO.658 OF 2026
AND
CIVIL APPLICATION NO.28 OF 2026
IN
FIRST APPEAL NO.92 OF 2026

1. Ismail Abbigeri s/o Mehaboobsab Abbigeri, Age:37 years Occ: Driver, R/o: EHN/CAN/71 ground floor, Orda, Candolim -403516. Now Residing at Qurtuba, Kuwait. Represented By P.A. Holder, Mrs. Saira Banu Amdumiya, W/o Ismail Abbigeri, Age:28 years Occ: household work, R/o: H NO EHN/CAN/71 Ground Floor, Orda, Candolim -403516

...**Appellant/ Ori-Third Party**

Versus.

1. Mr. Jaison Dias, 45 years of age, Indian National, R/o no 10504, Orda, Candolim, Bardez, Goa-403515.

2. Mr. Ramesh Ramchandra Pawar, Major R/o Aradi, Candolim, Bardez, Goa-403515

3. Mr., Luis Dias, Major R/o near ST, Sebestain Chapel, Orda, Candolim, Bardez, Goa-403515

4. Mrs. Philomena Silveria, Age: Major R/o Somer, Candolim, Bardez, Goa-403515

5. Mr. Devendra M Gohar, Age: Major R/o Tonca, Camara Bhat, Caranzelem, Goa-403002

6. Mr. Sameer S Dessai, Age: Major R/o Calangute, Bardez, Goa-403515

7. Mr. Mohan Krishna Kudalakar, Age: Major R/o House No:1/224/A, Naika Vaddo, Calangute, Bardez, Goa-403516

8. Mrs. Rathana Mohan Kudalkar, Age: Major, Indian national, House wife, R/o House no:1/224/A, Naika Vaddo, Calangute, Bardez, Goa-403516

9. Mr. Bryan Romauldo Cosme Dias, Age: Major and his wife.

10.Mrs. Mamria De Fatima Perpetua, Socorro Reveredo, Age: Major, both residing at Jessma Apartments, Xettia Waddo, House No:295(4)4, Duler, Mapusa Bardez, Goa-403507.

11. Mr. Anil Ramu Sutar, Age: Major, R/o Orda, Candolim, Bardez, Goa-403515.

12. Mr. Joao Luis Silveria, Age: Major., R/o Simer, Candolim, Bardez, Goa-403515.

13. Mrs. Delilah Pereira, Age: Major and her husband.

14. Mr. Anthony Jaques, Age: Major, both residing at H No:84 Ullem Bhat, Batim, Goa Velha, Tiswadi, Goa-403108.

15. Mrs. Bharathi H. Belicatti, Age: Major and

16. Mrs. Sunitha A. Shigaonkar, Age: Major, both residing at Orda, Candolim, Bardez, Goa-403515.

17. Mr. John Victor J, Age: Major, residing at Orda, Candolim, Bardez, Goa-403515

18.Mr. Anthony X. N. Rebello, Age: Major, having office at Saldanha Building, Behind "O" Herald office, Panaji, Goa-403001

19. Mr. Saluzinho Soares, Age: Major, R/o St. Sebastian Chapel Orda, Candolim, Bardez, Goa-403515

20. Mr. Ananth C. Panshekar, Age: Major, Notary Public, having office Behind Samarth Theatre, Panjim, Goa-403001.

21.Village Panchayat of Candolim, Through its Secretary, Candolim, Bardez, Goa-403515

22.State of Goa, Through its Chief Secretary, Secretariat Building, Alto Porvorim, Bardez, Goa-403521

23.Town & Country Planning Department, Through its Chief Town Planner, Dempo Tower, Patto, Tiswadi, Goa-403001

24. Mr. Pedro Dias, Age: Major, Indian National, S/o late Antonia Carmino Dias.

25. Mr. Angelo Dias, Age: Major, Indian National, S/o late Antonia Carmino Dias, both are R/o Orda, Candolim, Bardez, Goa-403515. **...Respondents**

Mr. K. H. Naik, Advocate with **Ms. Roopa Nadagoudra, Advocate** for the Appellant.

Mr. Aurobindo Gomes Pereira, Advocate for the Respondent No.1.

Ms. Akshata Bhat, Additional Government Advocate for the Respondents No.22 and 23.

CORAM: **VALMIKI MENEZES, J.**

Reserved on: **23rd October 2026.**

Pronounced on: **5th November 2026.**

JUDGMENT:

1. This First Appeal impugns Order dated 23.12.2025 passed by the Adhoc District Judge-1 (FTC Court), Merces on CMA No. 148/2025/ FTC-1 (Exhibit B-1) filed by the Appellant under Order 21 Rule 97 and 101 CPC raising third party objections to Execution Application No.73/2024 filed by the Respondent No.1/ Original Plaintiff in Civil Suit No.51/2007; the District Court has dismissed the application/third party objection of the Appellant. Since the impugned Order partakes of a Decree, under Order 21 Rule 103 CPC, the present First Appeal has been filed raising several grounds of challenge to that Decree.

2. Shri K. H. Naik, appearing for the Appellant has advanced the following submissions:

a) That the impugned Order has been passed without conducting any inquiry or giving the Appellant an opportunity of leading evidence to prove his case; according to the Learned Advocate, the Appellant has obstructed the Decree of eviction/demolition of the suit structure in land under Survey No.82/2A of Village Calangute, passed in favour of the Respondent No.1, original Plaintiff in Civil Suit No.51/2007. The Appellant has claimed an original title to the land under Survey No.82/2A through a Sale Deed dated 28.02.2012 by which the said land was purchased from one Bharati, wife of Hanumant Belicatti and Smt. Sunita, wife of Ashok Shirgaonkar for consideration of Rs.2,00,000/-. On the basis of the Sale Deed, the Appellant constructed in the year 2022 a RCC building on the plot by investing more than Rs.10 lakh and obtained an Emergency House No. EHN/CAN/71 from the Village Panchayat of Candolim and has further obtained an electricity and water connection for this structure.

b) It was further submitted that prior to purchase of the

plot, the Appellant has done due diligence of the title of the plot and confirmed that the plot was purchased by the Appellant's predecessor-in-title from the original owners, Mr. Francisco Dias, Mrs. Ana Joaquim Dias, Mrs. Guilermina Dias, Mr. Sebastiano Dias, Mr. John Dias, Mr. Anthonio Dias, Mr. Joaquim Dias, who were represented by their Power of Attorney holder, Mr. Paul Dias; according to the Appellant the Deed of Sale was executed by Paul Dias on 16.04.2003 in favour of his predecessors-in-title and therefore, as a bonafide purchaser for consideration, the Appellant is entitled to obstruct the execution of the Decree in favour of the Respondent No.1 and continue in possession of the suit plot.

c) The Learned Advocate for the Appellant made reference to the Deeds of Sale dated 16.04.2003 executed by Paul Dias, and to the Sale Deed in his favour; reference was also made to the Power of Attorney dated 20.01.2003 issued by Mr. Francisco Dias, Mrs. Ana Joaquim Dias, Mrs. Guilermina Dias, Mr. Sebastiano Dias, Mr. John Dias, Mr. Anthonio Dias, Mr. Joaquim Dias in favour of Paul Dias, the survey records in Form I & XIV of the land,

the Emergency House No. receipt dated 13.01.2022 and to the record of Civil Suit No.51/2007 to substantiate the Appellant's claim to a title independent to the one claimed by the Respondent No.1, to the Plaintiff in the aforementioned suit, and the decree holder in the Execution Application.

3. The Appeal was opposed by Shri Aurobindo Gomes Pereira, learned Advocate appearing for the Respondent No.1, the contesting party, decree holder in Execution Proceedings No.73/2024 and original Plaintiff in Civil Suit No 51/2007;

a) He submits that the Appellant has not claimed any title independent of the Defendants in the Suit. He has made references to the original plaint and Decree dated 30.06.2022 passed in Civil Suit No 51/2007 to contend that in the suit filed for declaration, perpetual injunction, cancellation of deeds and mandatory injunction, were arrayed as Defendants No.12 and 13 in the Suit whilst Luis Dias, the Power of Attorney holder of Mr. Francisco Dias, Mrs. Ana Joaquim Dias, Mrs. Guilermina Dias, Mr. Sebastiano Dias, Mr. John Dias, Mr. Anthonio Dias, Mr. Joaquim Dias was impleaded as Defendant No.2. He argues that the suit sought a declaration

that the Deed of Sale dated 16.04.2003 in favour of Bharati Belicatti and Sunita Shirgaonkar was fraudulently executed as persons arrayed as Vendors in the Deed had expired prior to its execution. Amongst these, the original owner Joaquim Dias was the Plaintiff's father whilst Mr. Francisco Dias and Mrs. Ana Joaquim Dias were the parents of Joaquim Dias and Mrs. Guilermina Dias, Mr. Sebastiano Dias, Mr. John Dias, Mr. Anthonio Dias were all Joaquim Dias' siblings. The Civil Court, in Civil Suit No. 51/2007 had granted a temporary injunction by Order dated 12.06.2008 restraining Defendant Nos.1, 3 to 14 (including Defendant 12 Bharati Belicatti and Defendant 13 Sunita Shirgaonkar) from alienating or transferring or creating a charge for encumbrance or changing the nature of the suit properties under Survey No.82/2, 82/7 and 82/12 or carrying out any construction thereon, and further restraining Defendant 18 – Village Panchayat of Candolim, Defendant 20 – Town and Country Planning Department and also Defendant 22 –Mamlatdar Mutations from carrying out any mutation on the survey records on the basis of Sale Deeds challenged in the suit. One the Sale

Deeds challenged in the Suit was a Sale Deed dated 16.04.2003 executed in favour of Bharati and Sunita.

4. The necessary facts for adjudication are as follows:

a. The Original Plaintiff, Jaison Dias son of late Joaquim Dias who was the co-owner of properties bearing Survey No. 82/2, 82/7, 82/12 situated at Orda, Candolim, Bardez Goa having his name recorded in the Form I and XIV along with his siblings' names; Guilhermina Dias, late Sebestiano Dias, late John Dias, Late Antonio Dias and their parents late Francisco Dias and late Ana Joaquina Dias the original owners.

b. It was in August 2006, that the Plaintiff noticed illegal hill cutting activities taking place on the property and subsequently conducted an inquiry, and realised that a portion of the property, particularly property under Survey No. 82/2 was sold to Original Defendants 1, 3 to 14 by sale deed executed on the basis of two Power of Attorneys dated 20.01.2003 in favour of Paul Dias and Luis Dias. The sale was made via Sale Deed dated 16.04.2003 between Mr. Francisco Dias, Mrs. Guilermina Dias, Mrs. Ana Joaquim Dias, Mr.

Sebastiao Dias, Mr. John Dias, Mr. Anthonio Carmina Dias through POA holder Paul Dias and Bharati Belicatti and Sunita Shirgaonkar wherein property bearing Survey no. 82/2 (plot A and B) admeasuring 102sq. mts was sold to them.

c. Therefore, the Plaintiff filed Civil Suit No.51/2007 claiming that the Power of Attorneys have never been executed as the original owners were deceased at the time of the execution of the Power of Attorneys and thus the sale deeds are null and void and further filed an application for temporary injunction dated 23.08.2007 which was granted vide order dated 12.06.2008 against Defendant Nos 1, 3 to 14 and restrained them from creating third party rights in the suit property.

d. The Defendants through their Written Statement disputed the name of the father of the Plaintiff to the name in Form I &XIV and contended that the suit is barred by limitation.

e. Subsequently the suit was decreed in favour of the Plaintiff and the Sale deeds executed by Power of Attorney holder were declared to be null and void vide judgement dated 30/06/2022. The Plaintiff then filed an Application for Execution No. 73/2024 on

21/06/2024 to execute the said Judgement and decree in the Court of District Judge-I, Merces Tiswadi Goa and the said court directed the Mamlatdar to carry out demolition of the house situated in the suit property in pursuance to the said decree.

f. The Appellant vide sale deed dated 28/02/2012 purchased the suit property bearing S.no. 82/2 (plot A and Plot B) admeasuring 102 sq. mts from Bharati Belicatti and Sunita Shirgaonkar, Defendants No 15 and 16, original purchasers through POA holder Paul Dias, during the pendency of the Civil Suit No.51/2007. On receiving notice dated 26/11/2025 from the Mamlatdar asking the Appellant to vacate the house on or before 05.01.2026 in order to carry out demolition, the Appellant filed an application CMA No.148/2025 dated 08.09.2025 objecting to the execution of the said decree as third party objector under Order 21 Rule 97 and 101 along with a stay application and contended that Applicants were not parties to CS No. 51/2007 and Execution Application No. 73/2024 but as per sale deed and records, they claim to be exclusive owners in possession of their house property. They claim to be

bonafide purchasers of the suit property through Bharati Belicatti and Sunita Shirgaonkar; the said Application was rejected vide order dated 23.12.2025, and the same is impugned herein.

POINT FOR DETERMINATION:

Whether the Executing Court was justified in dismissing the Appellant's application under Order 21 Rules 97 and 101 CPC without deciding the Appellant's claim of independent title, over the suit property?

CONSIDERATIONS:

5. The Appellant/Original Applicant opposing the Execution Proceedings does not claim a title independent of any of the Defendants in the Suit. On the contrary, it is not in dispute that the Appellant purchased land under Survey Nos. 82/2A which was part of the original suit property under Survey No.82/2 by Deed of Sale dated 28.02.2012 from Bharati Belicatti and Sunita Shirgaonkar who are respectively Defendants 12 and 13 in the suit. Bharati and Sunita were served with notice in the suit. They chose not to file any written statement and the suit proceeded ex parte against them.

6. During the pendency of the suit, the Civil Court, by Order of 12.06.2008 passed an order of temporary injunction, restraining Defendants 1, 3 to 14, or any persons acting on their behalf from alienating, transferring or creating a charge or creating any encumbrance or third party rights or changing the nature of the suit properties under Survey No.82/2, 82/7 and 82/12, and from carrying out any further construction in these properties; Sunita and Bharati therefore stood restrained from transferring any part of Survey No.82/2 to a third party with effect from 12.06.2008.

The restraint order also injuncted the Respondents 18 to 20, i.e. the Village Panchayat of Candolim, State of Goa and Town Planner Tiswadi and also Respondent 22 Mamlatdar of Mutations, Mapusa from granting any licence or approving plans for construction or from carrying out mutations with respect to any Sale Deeds of the said property.

7. Despite the restraint order, Sunita and Bharati have transferred by way of Sale Deed dated 28.02.2012 a plot admeasuring 102 sq.mts comprising newly created plots 2A and 2B for a sum of Rs.1,02,000/- without disclosing

this fact to the Civil Court in the pending suit which form part of Survey No.82/2. Pursuant to the Sale Deed, in violation of the temporary injunction of the Civil Court, a mutation came to be carried out in land under Survey No.82/2, incorporating the Appellant's name in the Survey records. The Deed of Sale and the entries in the survey records are therefore executed in violation of the order of temporary injunction dated 12.06.2008 and executed *pendente lite*.

8. In this set of facts therefore, the Appellant cannot claim a title independent of the Defendants in the suit and are as much bound by the Decree which is now sought to be executed. The opposition to the execution of the Decree on the specious plea that the Appellants are riding on a title independent of the parties to a suit must be rejected.

9. On examining the documents produced by the Appellant, apart from the Deed of Sale and the Survey records, both of which are executed in contravention of the injunction order, the Appellant does not possess any valid construction licence, for a structure which he claims was put up in the year 2022. This is obviously so because the trial Court had issued an order of

temporary injunction restraining the Panchayat and the Town Planner from issuing any construction licences to any new structures within land under Survey Nos.82/2. All that the Appellant has is an "Emergency House No. EHN/CAN/71" issued by the Village Panchayat, which is also in contravention of the orders of temporary injunction. There is no other document worth the name produced by the Appellant before the Executing Court to substantiate his case for conducting a full scale inquiry into title or his right to continue in possession of the area of 102 sq.mts in Survey No.82/2.

10. It has been argued by the learned Advocate appearing fort the Appellant that in every case, where a third party raises objections under Rule 97 of Order 21 read with Section 47 CPC, that the Executing Court must hold an inquiry into the objector's claim. It was argued that the trial Court, in breach of the mandate of these provisions has dismissed the application, merely on considering the Appellant's document and without conducting an inquiry as is contemplated in Rules 98 to 101 of Order 21 CPC.

11. The Supreme Court considered this very argument in ***Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal***[1], and held that the provisions of Order 21 are a complete code for resolving all disputes pertaining to the execution of a decree; the relevant paragraphs are quoted below:

> *"4. A conjoint reading of Order XXI Rules 97, 98, 99 and 101 projects the following picture:*
>
> *(1) If a decree-holder is resisted or obstructed in execution of the decree for possession with the result that the decree for possession could not be executed in the normal manner by obtaining warrant for possession under Order XXI Rule 35, then the decree-holder has to move an application under Order XXI Rule 97 for removal of such obstruction and after hearing the decree-holder and the obstructionist the Court can pass appropriate orders after adjudicating upon the controversy between the parties as enjoined by Order XXI Rule 97 sub-rule (2) read with Order XXI Rule 98. It is obvious that after such adjudication if it is found that the resistance or obstruction was occasioned without just cause by the judgment-debtor or by some other person at his instigation or on his behalf then such obstruction or resistance would be*

[1] (1997) 3 SCC 694

removed as per Order XXI Rule 98 sub-rule (2) and the decree-holder would be permitted to be put in possession. Even in such an eventuality the order passed would be treated as a decree under Order XXI Rule 101 and no separate suit would lie against such order meaning thereby the only remedy would be to prefer an appeal before the appropriate appellate court against such deemed decree.

(2) If for any reason a stranger to the decree is already dispossessed of the suit property relating to which he claims any right, title or interest before his getting any opportunity to resist or offer obstruction on spot on account of his absence from the place or for any other valid reason then his remedy would lie in filing an application under Order XXI Rule 99, CPC claiming that his dispossession was illegal and that possession deserves to be restored to him. If such an application is allowed after adjudication then as enjoined by Order XXI Rule 98 sub-rule (1) CPC the Executing Court can direct the stranger applicant under Order XXI Rule 99 to be put in possession of the property of if his application is found to be substanceless it has to be dismissed. Such an order passed by the Executing Court disposing of the application one way or the other under Order XXI Rule 98 sub-rule (1) would be deemed to be a decree as laid down by Order

XXI Rule 103 and would be appealable before appropriate appellate forum. But no separate suit would lie against such orders as clearly enjoined by Order XXI Rule 101.

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6. *A reading of Order 21, Rule 97 CPC clearly envisages that "any person" even including the judgment-debtor irrespective whether he claims derivative title from the judgment-debtor or set up his own right, title or interest dehors the judgment-debtor and he resists execution of a decree, then the court in addition to the power under Rule 35 (3) has been empowered to conduct an enquiry whether the obstruction by that person in obtaining possession of immovable property was legal or not. The decree-holder gets a right under Rule 97 to make an application against third parties to have his obstruction removed and an enquiry thereon could be done. Each occasion of obstruction or resistance furnishes a cause of action to the decree-holder to make an application for removal of the obstruction or resistance by such person."*

12. In ***Periyammal (Dead) through Lrs. And Ors. V. Rajamani and Another***[2] making reference to ***Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal***[3]

[2] 2025 SCC OnLine SC 507

[3] (1997) 3 SCC 694

(supra), the Supreme Court considered whether an executing court has to, in every case of obstruction, to conduct an inquiry or it would suffice, considering the circumstances of particular cases, obviate the necessity to conduct a full-scale inquiry. The objector, will have to prima facie show to the Executing Court that it has a genuine case and has acted bonafidely whilst proposing the execution proceedings.

13. In ***Silverline Forum Pvt. Ltd. v. Rajiv Trust***[4], the Supreme Court was again considering the scope of Rules 97 to 101 of Order 21 CPC and whether it was necessary in every case to determine a question raised by an objector. The relevant observations are reproduced below:

> *"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."*

[4] (1998) 3 SCC 723

14. Considering the observations made by the Supreme Court in the aforementioned judgments it is not in every case that an Executing Court is required to decide whether the obstructor is a person bound by the decree, by holding a full-scale inquiry. It has been clearly held that the obstructor must show his bonafides and that he has a genuine case, and that the adjudication necessarily involves a detailed inquiry for collection of evidence.

In the present case, the applicant obstructor clearly has acted without any bonafides and the obstruction is not genuine. He has obtained the property under a transfer pendente lite, that too in direct contempt of the order of temporary injunction issued by the Civil Court during the pendency of the suit. Admittedly, his title is derived from Defendants 12 and 13 and his case cannot go beyond their title.

15. The challenge in the suit was to a Deed of Sale dated 16.04.2003 purportedly executed by Defendant 2 in favour of Defendants No. 1, 3 to 14 on the basis of a power of attorney dated 20.01.2003 held to be fraudulently executed in the name of persons who were either dead or by person who does not exist. This was the decree of the trial Court, declaring the original Sale Deed in favour of

Defendants 12 and 13, predecessor in title of the present Appellant to be a nullity. The Appellants have not challenged the original Decree but have challenged the impugned order in execution. In the aforementioned set of facts and in the face of the admitted documents executed in favour of the Appellant, there was no requirement for conducting an inquiry by way of recording evidence as the Appellant claims a title through Defendants 12 and 13, against whom the Decree being executed was being obstructed.

16. This Court following the observations made in ***Silverline Forum Pvt. Ltd. v. Rajiv Trust,***(supra)and ***Periyammal (Dead) through Lrs. And Ors. V. Rajamani and Another*** (supra) has made the following observations:

> *"21. Thus, as held in Silverline (supra), the Executing Court may, in an application under Section 47 decide whether the case made out in an application of a third party, warrants a full scale adjudication and inquiry. In Exhibit D-9, the application filed by the Petitioner under Section 47, all that the Petitioner claims in seven paragraphs thereof is that she is the legally wedded wife of Jitendra, Judgment Debtor No. 2 and she was not impleaded as a Defendant in the suit; she claims she is married under regime of Communion of Assets and therefore is entitled to 50% share in the suit*

property. There is not a single document annexed to the application nor averment made claiming a title independent of her husband. The Trial Court considered the application and has given a specific finding that since the Petitioner's husband Jitendra was held to be a trespasser, which finding is confirmed consistently by all the Courts and by the Supreme Court, she has no right to claim an independent title. There is also a specific finding whilst rejecting her contentions, and after considering the rights of the spouse under Article 1108 of the Civil Code of 1867, that since the Judgment Debtor No. 2 was in illegal occupation of the premises, such rights could not devolve upon, or be claimed by the Petitioner. There is also a specific finding given by the Executing Court in paras 19 and 22 of its order dated 11.04.2022 that the suit premises have been held, in the Judgment and Decree passed in RCS No. 440/2000/C, not to be part of the estate of the Judgment Debtor No. 2. The findings on this application are, therefore, rendered on merits, and have attained finality since the Hon'ble Supreme Court, in its order dated 27.08.2024 has dismissed the SLP against an order dated 10.07.2024 of this Court in Writ Petition No. 476/2024, which confirms the order on Exhibit D-9 dated 11.04.2022 passed by the Executing Court. There was, therefore, no question of again deciding the claim made by the Petitioner on merits, as the decision on merits had already been rendered, rejecting her contentions.

22. This is therefore a case where there was no requirement for holding a full scale inquiry and adjudicating upon a frivolous claim raised by the Petitioner, which had already been rejected on merits. The observations of the Supreme Court in paras 10, 11, 12 and 14 of Silverline (supra) apply to the facts of the present case. This Court in Vasudha Vasant Dabholkar v. Sudhesh Govekar (supra), considered a somewhat similar situation where the decree passed against some of the siblings was sought to be obstructed in execution by their sister, in the same manner as sought to be done by the Petitioner herein. Whilst dismissing the application under Order 21 Rule 97 to 105 CPC filed by one of the siblings, and making reference to Silverline (supra), this Court has made the following observations:

"5. Respondents no. 1 to 5, i.e. the decree holders in the above suit, had already instituted execution proceedings in 2014. However, even after the Hon'ble Supreme Court disposed of the appeal, for some reason, the execution did not proceed at the desired pace. Therefore, the decree holders instituted proceedings Page 4 of 22 15th October 2022 903-SA-621-22 (F).DOC before this Court which were disposed of by Order dated 20.06.2022. Accordingly, this Court directed the Executing Court to dispose of the pending execution proceedings as expeditiously as possible and, in any case, within three months.

6. At this stage, the Appellant, who is the sister/sister-in-law of the judgment debtors in Regular Civil Suit No. 226/2006/E, filed Obstructionist Proceedings invoking the provisions of Order 21, Rule 97 r/w 101 of the CPC. Ay Order dated 14.12.2021, the Executing Court dismissed the Application. The First Appellate Court dismissed the appeal on 05.03.2022. Hence the present Second Appeal.

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30. Considering the close relationship between the Appellant and her brothers and the circumstance of the Appellant waiting in the wings all along and filing the obstructionist application only after the execution proceedings were ordered to be expedited, the unsubstantiated plea of the independent claim could not be a valid ground to delay or obstruct the execution any further.

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36. On the aspect of a full-fledged trial, it is not as if a full fledged trial is a must no sooner the obstructionist approaches the Executing Court with an application under Order 21, Rule 97 r/w 101 of the CPC. However, at least a prima facie case raising some serious issue to be tried must be made out. The questions raised should have legally arisen between the parties to the proceedings. Further, they must be relevant to the adjudication. The Hon'ble Supreme Court so holds this

in Silverline Forum Pvt. Ltd. (supra). Merely asserting that the plea raised was independent of the plea raised by the judgment debtors is insufficient. The independence has to be demonstrated at least prima facie. No parties have a vested interest in drawing mileage from the unfortunate delays in the legal process."

17. The Executing Court has considered all the aforementioned documents and has rightly recorded its conclusions that the Appellant was claiming title not independent of the Defendants, but through Defendants 12 and 13 for the reasons recorded by the trial Court, which I fully endorse, it has rejected the application obstructing the execution at the threshold and without holding any elaborate inquiry. I find no compelling reasons to interfere with the findings of the trial Court, which can neither be termed as perverse or contrary to the record before it or for that matter contrary to any settled law.

18. For all the aforementioned reasons, I answer the point of determination formulated above in the negative. The Appeal is dismissed with costs of Rs.10,000/- which shall be paid to the Respondent No.1. Decree to be drawn accordingly. The Executing Court dealing with

Execution Proceedings 73/2024 shall proceed to execute Decree dated 30.06.2022 in relation to the objections raised by the present Appellant in relation to the structure and property claimed by the Appellant.

19. All pending Applications also stand disposed of.

VALMIKI MENEZES, J.

Signed by: MARIA SUZANA REBELLO
Designation: Personal Assistant
Date: 05/11/2026 11:43:31