

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Writ Petition No.17937/2015
with
Stay Application No.15866/2015

Gudar Mal and Others (judgment-debtors-petitioners) vs. Ghisa Lal (decree-holder-respondent)

Date of Order :: 29.02.2016

Present
Hon'ble Mr. Justice Mohammad Rafiq

Shri Sushil Pujari with
Shri S.P. Dadhich, counsel for judgment-debtors-petitioners
####

By the Court:-

Judgment-debtor-petitioners have filed this writ petition assailing order dated 05.11.2015 passed by learned Civil Judge, Kekri, District Ajmer, whereby the court below directed for attachment of property of judgment-debtor-petitioners under Order 21 Rule 54 of the Code of Civil Procedure.

Learned trial court decreed the suit of decree-holder-respondent vide judgment and decree dated 28.03.2005. Thereafter, decree-holder-respondent filed an application for execution of judgment and decree dated 28.03.2005. Learned trial court appointed Ratan Lal Sharma, as Special Amin, who submitted report dated 15.07.2013 before the trial court. Judgment-debtor-petitioners filed objection to that report. Learned trial court, after hearing both the parties, appointed Advocate Dwarka Prasad Pancholi, as Commissioner, who inspected the suit property and submitted his inspection report before the trial court. Judgment-debtor-petitioners submitted objection on the report of the Commission and reply to the objection was filed by him. After hearing both the parties, learned trial court, vide impugned order, directed attachment of property of judgment-debtor-

petitioners. Hence this writ petition.

Having heard learned counsel for the judgment-debtor-petitioners and perused the material on record, I am of the view that judgment and decree passed on 28.03.2005, ought to have been complied with by now. Judgment-debtor-petitioners have not fully complied with the same. The trial court decreed the suit to the effect that judgment-debtor-petitioners shall remove the slope of roof of the cinema hall, which falls on the house of decree-holder-respondent, within a period of two months and judgment-debtor-petitioners were restrained by way of permanent injunction that they shall not cause any ventilator, projection, window, exhaust fan to be installed or erected nor allow the water of tin shed to be fallen towards the house of the decree-holder-respondent. From the report of site commissioner as also that of sale amin, learned court below found that decree has not been fully complied with and slope of roof, which covers the house of decree-holder-respondent, has not been removed and it exists in the same condition.

In the result, writ petition fails and same is dismissed. Stay application is also dismissed.

(Mohammad Rafiq) J.

//Jaiman//57

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Giriraj Prasad Jaiman
DR

सत्यमेव जयते