



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Execution First Appeal No. 6/2024

Smt. Pooja D/o Mahendra Singh, Aged About 36 Years, W/o Manish Kumar, R/o Gangapur(Bhilwara) At Present Shri Laxmi Marble Industries, 29 Gidc, Near Water Tank, Opposite Railway Station, New Deesa, District Banaskantha (Gujarat)

-----Appellant

Versus

1. Mahendra Singh S/o Rankishore Saini, R/o Opposite Veterinary Hospital, Gangapur, Tehsil Sahada, District Bhilwara.
2. Punit S/o Mahendra Singh Saini, R/o Opposite Veterinary Hospital, Gangapur, Tehsil Sahada, District Bhilwara.
3. Vinit S/o Mahendra Singh Saini, R/o Opposite Veterinary Hospital, Gangapur, Tehsil Sahada, District Bhilwara.
4. Sub-Registrar, Sahada At Gangapur, District Bhilwara.

-----Respondents

For Appellant(s)	:	Mr. Kailash Khatri
For Respondent(s)	:	None present

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

05/08/2025

1. None present for the respondents, despite service.
2. The instant Civil Execution First Appeal under Section 96 read with Order XXI Rule 103 and 98 and Section 151 of the CPC giving challenge to the order dated 05.10.2023 passed by the learned Additional District Judge, Gangapur (Bhilwara) in Civil Execution Case No.3/2023 (Pooja Vs. Mahendra singh & Ors.),



whereby the learned Executing Court rejected the application under Section 151 of the CPC preferred on behalf of the appellant as well as the execution petition.

3. Heard learned counsel for the appellant and gone through the order under challenge and the other material as made available to this court.

4. Bereft of unnecessary details, brief facts giving rise to the instant execution first appeal would be that the appellant had filed a suit for partition of the suit property. During the course of the said proceedings, on 17.08.2022, the parties entered into a compromise. As per the terms of the compromise, the parties agreed to give shop No.3 on ground floor to the plaintiff towards her share. The defendants also agreed and consented to provide assistance to the plaintiff to obtain a separate patta of shop No.3 of the suit property in her name and the same shall be registered. The defendants had also agreed that wherever their signatures would be needed, they would remain present willingly to append their signatures. Looking to the predicament of the plaintiff, perhaps it was agreed that instead of executing a sale deed, the defendants would execute a gift deed and the same shall be get registered and probably it was done just to accommodate her so that she may get separate ownership of the property. The learned trial court, based upon the compromise and amicable settlement, decreed the suit in favour of the plaintiff-appellant. She was given full liberty in respect of the shop No.3 of the ground floor of the



suit property, which includes getting the property registered in her name or to obtain patta from the municipality, in which the defendants shall not object.

5. After the judgment and decree, though there was proclamation regarding ownership of the shop No.3 to the plaintiff-appellant, but in fact neither she was given possession of the property nor the documents of proprietary right and title were executed. It is in this scenario, she moved an Execution Petition bearing No.3/2023 before the trial court. The learned Civil Judge after hearing the counsel for the parties passed the order dated 10.07.2023 for delivering the possession of the shop in question to the appellant decree holder as well as directed the defendants to execute a written document in favour of the plaintiff-appellant. In pursuance of the said order, on 25.07.2023, the actual possession of the shop No.3 was given to the decree holder, however, no document was executed in her favour, in absence of which, she abstained from making agreement of any kind with any person with regard to the shop to sell it, to enter in to any kind of contract to take loan or to get finance. In such circumstances, the appellant moved an application under Section 151 of the CPC praying that the judgement debtors be directed to execute a gift deed in her name with regard to the shop No.3 so that she may obtain separate title or patta from the municipality or UIT concerned. It was her assertion that doing the above would be must because the entire property remains in the name of the judgment debtors and she could not get title over the shop No.3,



which is the part of the entire property and unless a separate title document is prepared in her favour, she could not enjoy rights of it. The learned trial court dismissed the application holding that it was a decree based on compromise and for which possession has been handed over to her and the judgment debtors are not creating any hindrance in use and occupation so also that the judgment debtors are not objecting for obtaining a patta from the Nagar Palika in favour of the decree holder, therefore, the scope of the proceedings ended. The learned trial court was also of the view that if the Nagar Palika is not issuing patta in favour of the decree holder, then it is a dispute between the Nagar Palika and the decree holder and in such matter, the indulgence of the civil court would be out of scope.

6. On a perusal of the compromise and the decree of the trial court , it is revealing that as per the terms of the compromise, the absolute ownership and possession of shop No.3 of the ground floor of the suit property would be given to the plaintiff and the plaintiff would be entitled to obtain patta from the Nagar Palika and get the property registered in her name and that if need may arise, the defendants would be willing to put their signatures wherever required.

7. On an anxious consideration of the rival submissions, the compromise terms, and the decree as drawn, this Court is of the firm view that the Executing Court fell in palpable error in curtailing its jurisdiction and in denying the true fruits of the



decree to the decree-holder. It is a trite principle that a decree passed by a competent Civil Court cannot be permitted to remain a mere paper decree, ornamental in nature, or reduced to the status of a redundant document devoid of efficacy. A decree is not intended to be a showpiece hanging on the wall of litigation; rather, it must be translated into reality so as to secure to the successful litigant the full measure of relief envisaged by the decree itself. Unless the decree-holder secures the substantive benefit contemplated under the judgment and decree, the very exercise of adjudication stands frustrated.

8. The present matter is a classic illustration where, despite a compromise decree unequivocally stipulating conferment of ownership rights upon the plaintiff-appellant in respect of Shop No.3, only symbolic compliance has been made by handing over possession, whereas the essential element of title transfer has been left unfulfilled. Possession, bereft of a corresponding document of title, can hardly be equated with ownership in the eyes of law. Proprietary rights such as alienation, transfer, mortgage, or the right to obtain finance are incidents of ownership and cannot be exercised merely on the basis of possession. The failure to execute a proper conveyance or gift deed, despite a clear undertaking recorded in the compromise, strikes at the root of the decree's efficacy.



9. At this stage, it becomes apposite to advert to Section 151 of the Code of Civil Procedure, which preserves the inherent powers of the Court. The said provision reads thus:

Saving of inherent powers of Court.

"Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. "

10. It is here that the scope and object of Section 151 of the Code of Civil Procedure assumes paramount importance. The said provision, captioned "Saving of inherent powers of Court", declares that nothing in the Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. These words are couched in the widest possible amplitude, signifying that the Legislature, in its wisdom, preserved to the Courts a residuary reservoir of power to ensure that the stream of justice does not run dry on account of procedural shackles.

11. The inherent jurisdiction of the Court under Section 151 is not a carte blanche to override express statutory provisions; rather, it is a safety valve, invoked where the Code is silent, to advance the cause of justice and to avert multiplicity of proceedings. In the context of execution proceedings, this inherent power is frequently exercised to render complete justice and to ensure that the decree-holder is not left remediless. It is well settled that the



Court, in exercise of its inherent jurisdiction, can pass such ancillary or consequential orders as are indispensable to render the decree meaningful. If such powers were not available, the very sanctity of decrees would be diluted, and litigants would be driven to a fruitless cycle of further litigation, thereby frustrating the decree itself.



12. Applying the above principles to the case at hand, this Court is of the considered opinion that the Executing Court ought to have exercised its inherent powers to direct the judgment-debtors to execute a registered document, as contemplated by the compromise, so that the decree-holder could secure full ownership of Shop No.3. The plea taken by the Executing Court that it had already delivered possession and that the Nagar Palika dispute was beyond its scope is untenable. When the decree itself envisaged execution of documents with the cooperation of the defendants, the Executing Court could not abdicate its responsibility by shifting the burden entirely upon the decree-holder to seek relief against the Municipality. In fact, the compromise decree casts a clear obligation upon the defendants to affix their signatures wherever required, which includes execution of a formal deed of transfer.

13. In such circumstances, denying the relief on the pretext of technicalities not only amounts to denial of substantive justice but also undermines the very authority of a civil decree. It is a time-honoured maxim that the Court should not permit its decree to



become illusory. The fruit of a decree must be made available to the decree-holder in real and effective terms, and not merely in form or symbolism.



14. Therefore, in the considered opinion of this Court, the rejection of the appellant's application under Section 151 CPC was wholly unsustainable. The Executing Court was duty-bound to employ its inherent powers to secure complete justice and to give actual effect to the decree. Inherent jurisdiction exists precisely to cater to such contingencies where, despite a decree, the relief cannot be effectuated without further directions. Denying such relief would reduce the decree to a dead letter, a mere redundant piece of paper, which is antithetical to the very purpose of judicial adjudication.

15. Consequently, to give life and vitality to the decree, and to prevent its frustration, this Court holds that the appellant is entitled not only to possession but also to a valid and registered document of title in her favour. This alone would ensure that the decree is executed in its true sense and that the decree-holder derives the real, tangible benefit contemplated under the compromise. Justice demands nothing less.

16. In furtherance of the aforesaid directions, this Court deems it appropriate to clarify that the execution of the decree shall be effectuated strictly in consonance with the terms of the compromise and the intent recorded therein. A significant



consideration that weighed with the parties, and which also formed the substratum of the settlement, was the financial predicament of the decree-holder. It was precisely in order to obviate the burden of heavy stamp duty or registration expenses of a sale deed that the judgment-debtors had, at the relevant time, unequivocally consented to execute a gift deed in favour of the plaintiff-appellant. The said undertaking was neither conditional nor equivocal and stands recorded as an integral part of the compromise. This consent must now be honoured in full measure, and the judgment-debtors are accordingly bound to effectuate the execution of a duly registered gift deed in favour of the decree-holder, thereby perfecting her title to Shop No.3 of the ground floor of the suit property.

17. The learned Executing Court, while giving effect to this order, shall fix a specific date for appearance of the parties before the Sub-Registrar, Gangapur/Bhilwara. On the date so appointed, the decree-holder and the judgment-debtors shall remain present before the registering authority, accompanied by an officer of the Court to ensure smooth compliance and to eliminate any scope of evasion or dilatory tactics. The gift deed shall be drafted and engrossed in the manner prescribed under law, incorporating the precise description of Shop No.3, and reflecting the intent and terms of the compromise decree.

18. Having regard to the fact that the execution of a gift deed was the conscious choice of the judgment-debtors themselves, in order



to save the decree-holder from avoidable financial strain, the entire expenditure on account of preparation, stamping and registration of the said gift deed shall be borne exclusively by the judgment-debtors. The Sub-Registrar, upon presentation of the deed, shall register the same forthwith in accordance with law, without permitting any procedural impediment to frustrate the effect of the decree.



19. Once the gift deed is duly registered, a certified copy thereof shall be furnished to the decree-holder, who shall be at liberty to place it before the concerned statutory authority, namely the Municipality, the UIT, or the local body having jurisdiction over the area, as the case may be. Upon such presentation, the Executive Officer, Chairperson, Commissioner, or Administrator of the said authority shall ensure that a separate title document/patta in respect of Shop No.3 is issued in favour of the decree-holder, after completing the requisite formalities prescribed under law. The issuance of such patta shall not be treated as a fresh adjudication but as a necessary administrative act flowing directly from the decree and the registered gift deed executed pursuant thereto.

20. This Court makes it abundantly clear that any delay or reluctance, either on the part of the judgment-debtors in executing the document or on the part of the registering/municipal authorities in issuing the patta, would amount to clear disobedience of the decree as affirmed by this Court and would invite appropriate proceedings in accordance with law. The object



is to secure to the decree-holder not a hollow formality but the substantive and real benefit of the adjudication she has already obtained. The decree must culminate in her acquiring not only possession but an indisputable and marketable title to Shop No.3, thereby enabling her to exercise all incidents of ownership without hindrance.



21. In view of the discussion made hereinabove, the order dated 05.10.2023 passed by the learned Additional District Judge, Gangapur (Bhilwara) in Civil Execution Case No.3/2023 (Pooja Vs. Mahendra singh & Ors.) is quashed and set aside.

22. The appeal is allowed in these terms.

23. All pending applications are disposed of.

(FARJAND ALI),J

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