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S. 47 - Execution of consent decree - No authority with the executing court to set aside, modify or vary the consent decree - Application U/s. 47 [cpc](#) made by respondent was not maintainable.

The Court is of the view that, in the present case, section 47, [CPC](#), application made by the respondents herein was totally misconceived. It was not maintainable. The Executing Court had no authority to set aside, modify or vary the consent decree. Clause K makes the valuation by Ernst and Young final and binding on the disputing parties. If, according to the respondents, the opinion of the valuer was tainted, biased or that they had failed to do their duty as a valuer, then appropriate proceedings ought to have been taken by the respondents either for setting aside or modifying the consent decree before the Competent Court but not in the Executing Court which has no power to set aside, modify or vary the decree. It was not open to the respondents to move under section 47, CPC for the relief, namely, to have the valuation report set aside as that would amount to virtually setting aside a portion of the consent decree which, as stated above, constituted very core and the basis of the consent decree. In the opinion of the court, without going into the merits of the matter, we hold that section 47, CPC application made by the respondents was not maintainable and ought not to have been entertained by the Executing Court.

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