

Ex No. 249/20

Yogender Kumar vs. Mukesh Kumar Gupta

24.12.2025

Present : Decree holder with Sh. Sanjay Gupta, advocate.

None for JD.

In compliance of the yesterday's order, counsel for decree holder has produced pendrive alongwith certificate under Section 65-B of Evidence Act today containing two footages which were recorded at the time of visit of the bailiff to execute the warrant of attachment earlier. Those two footages are played in the court but in none of the same, the father of the JD admitted that the JD is having any share in the property bearing no. B-212, Gali No.13, 2nd Floor, Near Aatta Chakki, Village Gokulpuri, Delhi.

The decree holder has not produced any document to show that the above mentioned property is either the ancestral property having JD 1/6th share in it or it is in the name of JD. Accordingly, the request for attachment of this property through the application under Order 21 Rule 41 CPC dated 17.10.2025 cannot be allowed and this application is dismissed.

As per record, the decree was passed on 06.06.2020 and the execution was filed on 20.10.2020. Though on number of occasions due to non taking of steps by the decree holder, the delay had happened but the JD was served and first time appeared on 08.03.2022 alongwith his counsel. The JD did not

make any payment of the decree, so the warrants of attachment of his movable property was ordered to be issued on 03.02.2023. This execution was once dismissed in default on 07.03.2023 but was restored on 13.09.2023. Again attachment warrants were issued qua the property of the JD and during the execution of those warrants, JD gave one cheque of Rs.2,00,000/- on 02.07.2024 which was bounced.

Fresh warrants of attachment of the movable property of the JD was issued for 22.10.2024 but it remained unexecuted as the JD was not found at the address and no sufficient articles were found in his room in his possession. The record also indicates that the JD was in possession of only one room in the property bearing No. B-212, Gali No.13, 2nd Floor, Near Aatta Chakki, Village Gokulpuri, Delhi.

Subsequently, the decree holder moved an application for civil imprisonment of the JD and the notice of the same was issued to him but it was found that he was not residing at the address as per report of the process server dated 22.02.2025. The record also shows that the counsel for JD who was appearing at one time had stopped coming to the court due to absence of instructions.

The notice was ordered to be served through affixation at the above mentioned address of the JD but it has come on record as per ordersheet dated 28.05.2025 that the JD has been disowned by his father and the property in which he was found residing at one time belonged to his father.

One another application was moved by the decree holder for civil imprisonment of the JD on 31.07.2025. The decree holder took time to provide the details of immovable property of the JD and ordersheet dated 24.09.2025 shows that he failed to provide such details. The application moved under Order 21 Rule 41 CPC on 28.10.2025 has been rejected above due to absence of the documents that the above mentioned immovable property belongs to JD or he is having any share in it.

Various reports on record point out that the JD was once residing at the address of B-212, Gali No. 13, Near Aatta Chakki, Village Gokulpur, Delhi but now he has already left the said address after vacating one room situated in this property. JD is not appearing though he has full knowledge of the present execution. His one cheque given during the present execution has been bounced. Two applications of the decree holder containing request for sending the JD to civil imprisonment are pending. In such circumstances, I am of the opinion that unless the very coercive action is taken, it is not possible for recovery of the decreed amount. Due to absence of any sufficient movable property, absence of any immovable property in his name and keeping in view the conduct of the JD reflected above to delay the execution and to avoid making payments, there is no other option except to issue arrest warrants against the JD, so that he can be sent to civil imprisonment. Even in one of the video footage played today, the JD during his phone talks showed inclination to go to jail instead of making payment.

Accordingly, issue arrest warrants against the JD on filing PF to be executed by the SHO, PS: Gokulpuri. SHO is directed to arrest the JD and produce him in this court immediately after arrest and in case the arrest warrants are unexecuted, then submit its report on **27.01.2026**. Decree holder to co-ordinate with the SHO, so that sincere efforts are made by SHO for arrest of the JD. Steps be taken by the decree holder on or before 05.01.2026 by filing necessary PF and copy of the decree.

(ASHWANI KUMAR SARPAL)
Principal District & Sessions Judge
North-East District, KKD Delhi/24.12.2025