

KABC170009232025



**IN THE COURT OF LXXXIV ADDL. CITY CIVIL &
SESSIONS JUDGE, AT BENGALURU (CCH-85)
(Commercial Court)**

THIS THE 3rd DAY OF NOVEMBER 2025

PRESENT:

**SRI. ANAND T. CHAVAN. B.Com.,LL.B.(Spl.)
LXXXIV ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com.Exe.No.364/2025

**Decree
Holder:-**

**Karnataka Bank Ltd.,
Vijaya Nagar Branch,
No.13, Maruthi Arcade Service Road,
Opp. Maruthi Mandir,
West of Chord Road, Vijayanagar,
Bangalore-560104.**

(Rep by Sri. C S Satish -Adv)

**Judgment
Debtor:-**

**V/s
Smt. Savitha,
W/o Sri. Muthuraju (Deceased),
#23/6, I Main Road,**

Pipeline Road, Vijayanagar,
Bangalore.

(Rep by Sri. S. G Swamy - Adv

ORDER

The Decree-holder has filed present execution petition under XXI Rule 11 of CPC seeking to recover Rs.8,54,297/- from Judgment debtor, who is said to be the Legal representative of original defendant, in pursuant to decree passed by this court in Com.O.S. No.4217/2019.

2. It is averred in the petition that, in pursuant to above decree, the Judgment debtor is liable to pay above amount and it is prayed to pass necessary orders against Judgment debtor for recovery of said dues. The Decree-holder has enclosed certified copy of decree in Com.O.S. No.4217/2019 along with death certificate of original defendant in said case by name Muthuraju, wherein the name of present Judgment debtor is mentioned as his wife.

3. The Judgment debtor has appeared in pursuant to cause notice and filed her objections by reiterating about aforesaid decree passed in Com.O.S.

No.4217/2019. It is further averred that the petition is not maintainable and it is liable to be dismissed. Further the original defendant Muthuraju married Judgment debtor, but their married life was not cordial. At the relevant point of time of availing loan from plaintiff, deceased Muthuraju was not with Judgment debtor and he was residing separately even prior to sanctioning of loan by Decree-holder. His whereabouts were also not known to Judgment debtor. Said Muthuraju passed away on 23.12.2020 and thereafter Decree-holder has filed present petition. The Judgment debtor is not party to original suit and she has not borrowed any amount from plaintiff bank. Further she is leading her life in miserable condition with the help of her parents and she is also taking care of her two married children with their help. Further she is unable to have comfortable job to earn her livelihood, as she is suffering from brain stroke and she is taking treatment from NIMHANS from 05.03.2023 till this date. It is further averred that the Decree-holder can execute the judgment against LRs of Judgment debtor

only to the extent of assets of deceased's estate succeeded by such LR's. Hence liability of present Judgment debtor is limited to value of estate inherited from deceased person and not beyond that. It is further averred that Muthuraju had one ancestral property in the name of his uncle Muniyappa of Marcharahalli, Kolala Hobli, Korategere Taluk, Tumkur District and Decree-holder may attach said property. These amongst other grounds, it is prayed to dismiss the execution petition.

4. The following points arise for consideration:

1. Whether Decree-holder is entitled to proceed against Judgment debtor for recovery of decree dues as per decree in Com.OS No.4217/2019?

2. What order?

5. Heard arguments of both sides, perused records.

6. The followings are answers to above:

Point No.1:- Partly in the Affirmative.

Point No.2:- As per the final Order for the following;

REASONS

7. POINT No.1:- The Decree holder has filed present execution under XXI Rule 11 of CPC seeking to recover Rs.8,54,297/- from Judgment debtor, who is said to be the LR of original defendant, in pursuant to decree passed by this court in Com.O.S. No.4217/2019. The certified copy of aforesaid decree shows that, the said suit was filed against the original defendant Muthuraju for recovery of Rs.5,29,948/- with interest and this court by judgment and decree dtd.10.03.2021 decreed the suit by holding that plaintiff bank is entitled for recovery of said amount from defendant with interest at the rate of 9% per annum. Now Decree-holder has come up with present petition against Judgment debtor, who is said to be wife of aforesaid Muthuraju.

8. The Judgment debtor has not denied and disputed the relationship between parties, but she has taken specific contention that, even prior to availing the alleged loan, the defendant Muthuraju was residing separately and Decree-holder cannot proceed against her, unless she has inherited any

estate of her deceased husband Muthuraju. In this regard counsel for Judgment debtor has relied upon following case law and relevant portion of said case law is culled out as under:-

Caselaw reported in Civil Appeal Nos.7768-7769 of 2023 between Vinayak Purshottam Dube (Deceased) through Lrs V/s Jayashree Padamkar Bhat and Ors., (Hon'ble Supreme Court)

"29. This position is also clear on a reading of Section 50 of the CPC which states as under:

"Section.50:- (1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, **he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of;** and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit."

30. Thus, any decree which is relatable to the extent of the property of the deceased which has come to the hands of the legal representatives and has not been duly disposed of, the same would be liable for execution by a decree holder so as to compel the legal representatives to satisfy the decree. In this context, even a decree for preventive injunction can also be executed against the legal

representatives of the deceased judgment-debtor if such a decree is in relation to the property or runs with the property if there is a threat from such legal representatives.

31. In view of the aforesaid discussion, **we hold that the legal representatives of the deceased opposite party-appellants herein are not liable to discharge the obligation which had to be discharged by the deceased opposite party in his personal capacity and hence that portion of the impugned orders of the NCDRC, State Commission and District Forum are set aside.** Needless to observe that the direction for payments shall be made by the legal representatives from the estate of the deceased opposite party if not already satisfied."

9. As per aforesaid case law, it is crystal clear that, any legal representative of deceased defendant shall be liable to satisfy decree passed against such deceased defendant, only to the extent of the property of the deceased which has come to his/her hands and has not been duly disposed of. It is further clear that such LR cannot be held liable to satisfy such decree in his/her personal capacity. Hence the Decree-holder bank cannot choose to execute the present decree against Judgment debtor in her personal capacity and it can only insist recovery of decree dues from Judgment debtor out of the estate inherited by her from her

deceased husband. Hence liability of Judgment debtor may be restricted to aforesaid aspect and not more than that. **Accordingly point no.1 is answered in the affirmative.**

10. Point No.2:- For the reasons stated and findings given on Point No.1, the following is:-

ORDER

The decree holder bank is entitled to recover decree dues of Com.OS No.4217/2019 from Judgment debtor, out of any estate inherited by her from her deceased husband Muthuraju and Judgment debtor is not liable to pay said decree amount in her personal capacity.

No order as to costs.

Call on for details of assets inherited by JDR from deceased defendant Muthuraju if any and further steps by 13.11.2025.

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 3rd day of November 2025**]

(ANAND T. CHAVAN)

LXXXIV Addl.City Civil & Sessions Judge,
Bengaluru.