

KABG300001032025



**IN THE COURT OF SENIOR CIVIL JUDGE,
BAILHONGAL, AT: BAILHONGAL**

PRESENT:

**Shri. Ravi Babu Chawan,
B.A. LL.B.,
Senior Civil Judge, Bailhongal.**

E.P. No.25/2025

Dated this the 21st Day of January 2026

Shri. Mahendra Raosaheb Desai,
Age: Major, Occ: Agriculture
R/o: Nehru Nagar, Alnavar,
Tq & Dist: Dharwad

.....Decree Holder

(By Sri. R.N.M., Advocate)

-Vs.-

1) The LAO and Asst. Commissioner,
Bailhongal, Dist: Belagavi.

2) The Chief Executive Officer,
Zilla Panchayat, Belagavi.

.....Judgment-Debtors

(By Learned A.G.P., for Jdr.1)

(By Sri. M.M.K., Advocate for Jdr.2)

PARTIES TO IA No.I

1) The Chief Executive Officer,
Zilla Panchayat, Belagavi.

.....Applicant/Judgment Debtor No.2

(By Sri. M.M.K., Advocate for Jdr.2)

V/s.

Shri. Mahendra R Desai

.....Opponent/Decree Holder

(By Sri. R.N.M., Advocate)

ORDER ON IA No.I

The present application is filed by the Jdr No.2 Under Section 151 of CPC, seeking release of the attached vehicle bearing Registration No.KA-22/G-1991 (Amaze Honda Company), which has been attached pursuant to the warrant issued by this Court in the above execution petition.

2. The Judgment Debtor No.2 contends that the attachment is harass and unnecessary, that appeals challenging the award passed in LAC Nos.49 to 52/2009 dated 22-10-2024 have already been filed before the Principle District and Session Judge, Belagavi, in Misc. Appeal Nos.56/2025 to 59/2025 and the same are

pending consideration. It is further pleaded that Judgment Debtor No.2 is a Class-I Gazetted Officer, holding a responsible Administrative post and that the attached vehicle is essential for discharge of official duties. It is also pleaded that the Judgment Debtors are not evading liability and or willing to avoid by any condition imposed by the Court for release of the vehicle.

3. On the other hand, the Decree Holder has filed detailed statement of objections contending that the application is not maintainable, that there is no stay of execution, that the execution Court cannot go behind the decree, and that the attachment was lawful effected for recovery of the decretal amount. A reliance is placed on the judgments of the Hon'ble Supreme Court in *Rahul S. Saha, Periyammal (Dead) through LRS Vs. V. Rajamani, and Bojarajagaru*, emphasizing expeditious execution and curbing dilatory tactics.

4. In view of the above rival contentions and submissions of the both parties, the following points would arise for my consideration.

POINTS

1) Whether the application filed by the Judgment Debtor No.2 under Section 151 of CPC, is maintainable ?

2) Whether the Judgment Debtor No.2 has made out grounds for release of the attached vehicles ? If so, on what terms and conditions ?

3) What Order ?

5. My finding to the above points are as under:

Point No.1: In the Affirmative

Point No.2: In the Affirmative,
subject to conditions,

Point No.3: As per final order for the
following:

REASONS:

6. **Point No.1 & 2:-** It is well settled that, an execution Court cannot go behind the decree and must enforce the decree as it stands. There is also no dispute that there is a no order of stay operating against the decree under execution. The law lay down by the Hon'ble Supreme Court in *Rahul S. Saha* and reiterated in subsequent decisions mandates that execution proceedings should be concluded expeditiously and frivolous objections should be discouraged. At the same

time, this Court cannot be oblivious to the effect that the power under Section 151 of CPC is meant to advance the ends of justice and prevent abuse of process. The pleadings disclose that Judgment Debtor No.2 is a Government Officer holding a responsible Administrative position and that the attached vehicle is used for official purposes. The Judgment Debtor has also expressed willingness to secure the interests of the Decree Holder by complain with conditions that may be imposed by this Court.

7. In view of the above discussion, this Court is of the considered view that the attachment of the vehicle is only a mode of securing satisfaction of the decree. Release of the attached property, if sufficiently secured, does not defeat the decree nor does it amount to going behind the decree. The Decree Holder's interest can be adequately safeguarded by directing the Judgment Debtor No.2 to deposit value of the attached vehicles. Therefore, the balancing the right of decree holder to speedy execution and the hardship pleaded by Judgment Debtor No.2, this Court is of the Considered view that conditional release of the vehicle would met the ends of justice. Therefore, the objections raised by the Dhr regarding non-maintainability and alleged misuse of process, though relevant, do not outweigh

the equitable considerations when adequate security is ordered. Hence, point No.1 is answered in the affirmative and point No.2 is answered in the affirmative, subject to conditions.

8. **Point No.3:-** For the reasons stated above, the application deserves to be allowed with stringent conditions. Hence, this Court deems it fit to pass the following:

ORDER

IA No.1 filed by the Judgment Debtor No.2 under Section 151 of CPC is hereby allowed, subject to the following conditions:

1. Judgment Debtor No.2 shall deposit before this Court the value of the attached vehicle bearing Registration No.KA-22/G-1991 (Amaze Honda Company), as assessed by the RTO or any competent authority, within 15 days from the date of this order.
2. Upon such deposit, the attachment effected over the said vehicle shall stand

raised, and the vehicle shall be released in favour of Judgment Debtor No.2.

3. In the event of failure to deposit the said amount within stipulated time, this order shall stand automatically vacated, and the Decree Holders shall be at liberty to proceed further in accordance with law.

4. The amount so deposited shall be kept in court deposit and shall be subjected to the result of the execution proceedings.

5. Execution proceeding shall continue in accordance with law.

(Dictated to the stenographer, transcribed and corrected, then pronounced by me in the open Court on this that 21st Day of January 2026)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

