

KABG400005652014



IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,

CHIKODI

: PRESENT :

SHRI. PATIL HARISH RANGANAGOWDA

BA. LL.B.(Hon's)

Prl. Senior Civil Judge, Chikodi.

13th DAY OF FEBRUARY - 2026

EXECUTION PETITION NO.70/2014

BETWEEN :

- 1. Ganga Sugar Employees Co-operative
Credit Society Limited, Chikodi
by its Secretary
Basavanni Irappa Hirekudi
Age: 48 years, Occ: Service,
R/o: Chikodi, Dist: Belagavi.**

... Decree holder

(Sri. P. S. Sadar Joshi, Adv.,)

AND :

- 1. Sri. Ningappa Balesh Khot**
Since deceased by his legal heirs
and others
... Judgment debtors

(D1A, 1C, 1D by Sri. L. B. Chougule, Adv.,)

(D1B Absent)

:: ORDERS ON IA NO.XIX ::

The third party applicants by name Smt. Airawati and Kumari Kashibai have filed this application u/O.21 Rule 97 of CPC seeking to obstruct the execution and adjudicate their right over attached property.

2. Facts in nutshell:

The decree holder society has raised dispute u/Sec.70 of Karnataka Co-operative Societies Act against Jdrs seeking recovery of money. The ARCS passed award on 24.06.2014 for recovery of Rs.73,87,232/- with interest at 14% per annum against Jdrs. He has attached the following properties.

Sl. No.	Survey number	Extent
1.	RS No.429/1+3/B	1 Acre
2.	RS No.431	18 Gunta
3.	RS No.460/2	14 Gunta
4.	RS No.460/3	25 Gunta
5.	RS No.462	10 Gunta
6.	RS No.463/1	12 Gunta
7.	RS No.464/1	36 Gunta

3. He has also attached the movable of Jdr like the Life Insurance Policies. The Jdrs have not complied the award passed by the ARCS. Hence, the decree holder society by obtaining award dated:24.06.2014 has filed this execution petition seeking enforcement of said award. The property attached by ARCS were brought to the sale. The sale auction was issued twice and it was not fructified.

4. During pendency of re-settling the terms of sale the present application came to be filed by the third party applicants claiming that they has partiable interest over the attached property. According to them, the propositus Balesh Khot was holding the above mentioned serial No.2 to 7 property. He died leaving behind widow and five children. They themselves, one Rama and the original Jdr Ningappa are the children of said Balesh. Therefore the name of Rama and Ninagappa alone came to be mutated as per ME No.13122. There is no division in the family. They have got each 1/4th share in the attached property. Therefore they seek to

adjudicate their right drop the sale proclamation in respect of said property.

5. The decree holder society has objected the application on the ground that the applicants cannot invoke Order 21 Rule 97 of CPC. Only the decree holder can use the said provision. The applicants have no right over the said attached property and any right held by them is barred by limitation. Hence, they seek to reject the application.

6. The applicant No.1 lead evidence as PW-1 and produced one document at Ex.P1. She did not turn up to lead further chief and tender for cross-examination for the best reason known to her. Since the execution petition is of the year 2014, the case is reserved for orders on IA. Heard counsel for decree holder.

7. Having heard the counsel for decree holder the following points would arise for my consideration:

1. Whether the applicants made out ground to adjudicate their right over attached property and drop the sale proclamation in respect of the attached property ?

2. What order ?

8. Having heard and having perused the material on record, my findings above points is as under:

Point No.1 : In the Negative

Point No.2 : As per the final order,

for the following:

REASONS

9. Point No.1:- The present execution petition is filed to enforce the award passed by ARCS in the dispute bearing No.11/ABN/SUR/01/2013-14. The decree holder society seeks

recovery of Rs.1,47,29,190/- as award amount from the Jdrs. The award passed by ARCS is still in force. The said award has not been challenged and it has attained finality. The ARCS has attached the above mentioned properties of Jdrs. The above mentioned properties have been brought for sale by issuing sale proclamation. The sale proclamation was issued twice and returned without completion of sale proceedings. During pendency of re-settling the terms of sale the present application came to be filed. The applicants claimed that they has partiable interest over the attached property. They relied upon the mutation bearing ME No.13122 to contend that they have succeeded the property along with original Jdr from the propositus. Though the evidence of applicant was recorded and said mutation was marked as Ex.P1, the applicants have failed to appear and tender for cross-examination. The applicant who has lead evidence as PW-1 has failed to tender for cross-examination for the best reason known to her. This court has granted conditional time to tender for cross-

examination, the applicant willingly keep absent for the best reason known to her. Therefore there is no valid reason to halt the execution petition.

10. The applicants have no right to obstruct the execution petition at this stage of sale proclamation. The right, title and interest in respect of property claimed by them were attached long back. They have not challenged the said attachment order. The properties were brought to sale and infact the sale proclamation was also issued. They cannot contend that they were not aware about the said proceeding. The counsel appearing for third party applicant is also a counsel for Jdr. Therefore they cannot contend that they were not aware about the said attachment. Moreover the provision sought to be used by them is at the stage of issuance of possession warrant. Therefore they cannot use the said provision at this stage and seek halting of execution petition. They have not challenge the attachment order issued by the ARCS. If they have any interest over the attached property, they can adjudicate it by

filing separate suit and not in the present execution petition. Therefore I hold that the applicants have failed to make out ground to adjudicate their right and drop the sale proceedings.

Hence, I hold above point No.1 in the Negative.

11. Point No.2:- In the light of aforesaid finding on the above said point, I proceed to pass following:

ORDER

The application filed by applicants at IA No.XIX

filed u/O.21 Rule 97 of CPC is hereby rejected.

(Dictated to the stenographer directly over the computer, typed by her, corrected, signed and then pronounced by me in the open court on this the 13th day of February, 2026).

**(Patil Harish Ranganagowda)
Prl. Senior Civil Judge,
Chikodi.**

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