

KABG410025712024



**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,
CHIKODI, AT: CHIKODI.**

**Present: SRI. ZAHEER ATANUR
B.Sc, LL.B.,**

I Addl.C.J & JMFC, Chikodi

Dated this the 5th Day of June, 2026

E.P.No.37/2024

Decree Holder:-

1. Shri.Shiddarameshwar Co-op Credit
Society Ltd., Chikodi,
by it's Recovery Officer,
Shri.Ekanath Jinnappa Gopalgol,
Age: 29 years, Occ: Service,
R/o: Chikodi, Tal: Chikodi, Dist: Belagavi.

(By Sri.P.S.K. Advocate)

Vs

Judgment Debtors:-

1. Shri.Anil Subhash Mali,
Age: Major, Occ: Agriculture,
R/o : Basavan Galli, Chikodi,
Tq: Chikodi, Dist: Belagavi.

2. Shri.Basavaraj Bhima Mane,
Age: Major, Occ: Agriculture & Business,
R/o : Basavan Galli, Chikodi,
Tq: Chikodi, Dist: Belagavi.

3. Shri.Sangram Mayappa Pujari,
Age: Major, Occ: Agriculture,
R/o: Dambal Plot, Chikodi,
Tal: Chikodi, Dist: Belagavi.

**(J.Dr.No.3 Absent
J.Dr.No.1 I.D.N. Advocate)**

ORDER

The instant I.A.No.I is filed by the J.Dr.No.1 under Order IX Rule 7 of CPC seeking to set aside the order dated 20.7.2024 wherein this Court has taken that the J.Dr.No.1 is absent.

2. The brief facts of the case are as under:

The D.Hr. has filed Arbitration proceedings for recovery of money before the Arbitrator vide DRL/ABN/866/2021-2022, wherein the Arbitrator has passed an award against the J.Drs. Pursuant to it the D.Hr. Has filed this instant E.P.

against the J.Drs & this Court has issued notice to J.Dr.Nos.1 to 3. Inspite of service of notice the J.Dr.No.1 has remained absent and this Court has proceeded against the J.Dr.No.1 in his absence. Now the counsel for J.Dr.No.1 has filed this I.A.No.I seeking to set aside the order dated 20.7.2024 and sought permission to participate in this proceedings and prays to allow the I.A.No.I.

3. The counsel for D.Hr. Has filed objection stating that the J.Dr.No.1 has filed this I.A. at belated stage and with an intention to delay the process. He has also not mentioned any reasonable grounds to allow the I.A.No.I. Therefore prays to dismiss the I.A.No.I with cost of Rs.1,00,000/-.

4. Heard counsel for both the parties and perused the records.

5. On the basis of contention of I.A. and objection, the following points arise for determination of this court:

1. Whether the J.Dr.No.1 has made out sufficient grounds to set aside the order dated 20.7.2024 and to permit

him to participate in the proceedings ?

2. What order?

6. The above points are answered as under:

Point No.1 : In the ***Negative***

Point No. 2: As per final order, for the following :

REASONS

7. Point No.1: The D.Hr. has filed Arbitration proceedings for recovery of money before the Arbitrator vide DRL/ABN/866/2021-2022, wherein the Arbitrator has passed an award against the J.Drs. Pursuant to it the D.Hr. Has filed this instant E.P. against the J.Drs & this Court has issued notice to J.Dr.Nos.1 to 3. Inspite of service of notice the J.Dr.No.1 has remained absent and this Court has proceeded against the J.Dr.No.1 in his absence. Now the counsel for J.Dr.No.1 has filed this I.A.No.1 seeking to set aside the order dated 20.7.2024 and sought permission to participate in this proceedings and prays to allow the I.A.No.I.

8. The counsel for D.Hr. Has filed objection stating that the J.Dr.No.1 has filed this I.A. at belated stage and with an intention to delay the process. He has also not mentioned any reasonable grounds to allow the I.A.No.I. Therefore prays to dismiss the I.A.No.1 with cost of Rs.1,00,000/-.

9. At this stage it is pertinent to reproduce Order IX Rule 7 of CPC

7. Procedure where de appears on day of adjourned hearing and assigns good cause for previous non-appearance – Where the Court has adjourned the hearing of the suit exparte, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

10. On careful reading of the aforesaid provision it is clear that Order IX Rule 7 is applicable to the proceedings in suit and it does not have the applicability to the proceedings in

Order

execution. Hence, it is apparent on the face of record that the I.A. filed by J.Dr.No.1 is devoid of merits and not maintainable in the eyes of law. Accordingly, this Court answers Point No.1 in the ***Negative.***

11. Point No.2 : In view of afore stated reasons, this Court proceeds to pass the following:

ORDER

The I.A.No.1 filed by J.Dr.No.1 under Order IX Rule 7 of CPC is hereby dismissed with cost of Rs.500/-.

(Dictated to the Stenographer directly on computer, typed by Stenographer, corrected by me and then pronounced in the Open court on this 5th day of June, 2026).

SD/-

(Zaheer Atanur)
I ADDL. CIVIL JUDGE & JMFC,
CHIKODI.