

ORDER

The decree holder has filed this execution petition for recovery of decree amount of Rs.3,19,164/- as per the Judgment and Decree passed in OS No.97/2023 dated 04.08.2023. Though notice is served upon Jdr, he has not appeared before this Court. The Jdr is residing at Alaknur Village of Raibag Taluk having movable and immovable properties in that location. The Decree Holder wants to take attachment of movable properties of Jdr. Concerned jurisdictional Court has endorsed that attachment warrant is returned in view of section 39(4) of CPC. As the Jdr is residing within the jurisdiction of Raibag and in view of section 39 of CPC this Court has no jurisdiction to execute the decree: -

2. On a reading of Section 39 of the CPC, it makes clear that if the Court which has passed the decree, cannot execute the Award or Decree, it can be transferred to the jurisdictional Court for its enforcement. Further, the Hon'ble Apex court in the case of Mohit Bhargava V/s Bharat Bhushan Bhargava reported in 2007 (4) SCC 795 held that:- Court territorial jurisdiction to execution of Decree against property situate outside in local jurisdiction of court which passed the decree. It is only the court in whose jurisdiction the property is situated that can execute Decree or Award. As per Section 39 (4) it is clear that it is no longer a matter

of discretion for the court which passed the decree either to proceed with execution of Decree or transfer it for execution. Section 39 does not authorize the Court to execute a decree outside its jurisdiction but does not dilute the other provision giving such power on compliance with the condition stipulated in those provisions. Thus, this Court proceeds to pass the following:-

ORDER

This execution petition is transferred to concerned Jurisdictional Court at Raibag

Office is directed to transfer the Decree in Form No.3 to 5 of Appendix-E to concerned Court along with documents.

03.07.2026

I Addl Civil Judge and JMFC, Chikodi.