



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, GOKAK.**

BEFORE: Sri.Umesh S. Atnure,

B.Com.LL.B.(Spl)

E.P.No.63/2024

DATED THIS 04th DAY OF JUNE-2026

- Decree Holders: 1. Spandana D/o. Dilip Madar,
Age: 09 years, Occ: Student,
R/o: Adijamabhava Nagar, Gokak,
Tq: Gokak.
(DHR-1 is minor R/by DHR-2)
2. Shamala W/o. Dilip Madar,
Age: 42 years, Occ: Household,
R/o: Adijamabhava Nagar, Gokak,
Tq: Gokak.

(DHR R/by Sri.M.K.P., Advocate)

V/s

Judgment
Debtor:

1. Geeta W/o. Dilip Madar,
Age: 45 years, Occ: Service,
R/o: Chikkodi, Tq: Chikkodi.

(JDR R/by Sri.V.S.R., Advocate)

**PARTIES TO I.A.No.III U/o XXI RULE 64 R/W SECTION
151 OF CPC**

Applicant: 1. Geeta W/o. Dilip Madar

.....Applicant

Vs.

Opponent: 1. Spandana D/o. Dilip Madar
and another

.....Opponents

**ORDERS ON I.A.No.III FILED U/o XXI RULE 29 R/W
SECTION 151 OF CPC**

The JDR has filed this present application U/o XXI Rule 29 R/W Section 151 of CPC at I.A.No.III praying to stay the execution proceedings till disposal of objections application filed by her in OS.No.480/2017 which is pending before this court.

2. In the accompanying affidavit, the JDR contended that she is the legally wedded wife deceased Dilip Bhimappa Madar. The defendant No.1 i.e., present DHR-2 is no way concerned to her family and the DHR-2 is not the legally wedded wife of her deceased husband Dilip. Her marital tiles with deceased Dilip Madar is still in force. Her deceased husband was

working in KPTCL/HESCOM office at Ghataprabha as lineman and meter reader. This being the facts her counsel, defendant No.2 i.e., DHR-2 and the mediator in collusion with each other prepared a false and baseless plaint showing and admitting that the defendant No.1 i.e., DHR-1 is the daughter of the deceased Dilip. In fact the defendant No.2 i.e., DHR No.2 is a Devadasi lady, she has got several husbands therefore, there is absolutely no cogent evidence to show that the DHR-2 is the legally wedded wife her deceased husband Dilip Madar. The mediator and her advocate are not told her about what is written in the compromise petition and she was not aware of the contents of the compromise petition hence, the compromise petition itself is oppressive, one sided and fraudulent as such, she has challenge the same in OS.No.480/2017. She has received the copies of this petition and came to know that this court was pleased to pass an order of attachment of her salary the said order was passed in her absence. The DHR's colluding with her advocate and other mediators misrepresented and put her under threat of life and took her signature on the compromise petition and all the monitory benefits accrued to her after the

death of her husband are illegally given to the DHR No.2 and only she was given service of her husband that to with condition which are completely illegal and one sided. She is drawing salary of Rs.15,000/- per month, the deduction comes to nearly 70%, now she is facing difficulties for maintaining herself from her salary. Therefore, the execution proceedings are based on illegal and improper decree which needs to be stayed. If her application is allowed no loss or harm will be caused to the other side if not she will be put to heavy monetary loss which cannot be compensated in terms of money. Hence, she prayed to allow the application.

3. The DHR filed objections to this application by denying entire contentions of the JDR. Further they contended that the JDR filed suit in OS.No.480/2017 before this court falsely claiming that she is the legally wedded wife of deceased Dilip Madar. In fact the present DHR No.2 is the legally wedded wife of the deceased Dilip Madar and out of their wedlock the DHR-1 was born. The DHR-2 is entitled for all the death/retirement benefits of deceased Dilip Madar. She is the nominee of the Dilip Madar in all his service records and other documents. However the matter was compromise and

as per the terms of settlement arrived between the parties and instruction given by both the parties, their respective counsels prepared compromise petition and contents of the compromise petition are read over and explain the parties, after admitting the contents the present JDR and DHR have sign the compromise petition and Hon'ble court was also read over the contents of compromise petition and after admitting the same compromise was recorded. Hence, there is no question of deceiving the JDR by DHR. Now the JDR has turned up and making false allegation against her counsel and DHR counsel. As they being the only legal heir of deceased Dilip Madar, they are entitled to get all death/retirement benefits of deceased Madar. The JDR has approached this court on false grounds for staying the further proceedings of the said execution petition which is not lawful. Hence, prayed to reject the application.

4. Heard both side. Perused the application and material available on records.
5. The points that arise for my consideration are;

**1. Whether the JDR has made out
grounds to stay the further proceedings**

**of this case till deciding the objections
filed by DHR in OS.No.480/2017?**

2. What order?

6. My findings on the above points are:

POINT No.1: In the Affirmative

POINT No.2: As per final order

for the following;

REASONS

7. **POINT No.1:** This present execution petition is filed by the DHR for recovery of money which is due under compromise decree passed in OS.No.480/2017. Prior to this execution petition the present DHR has filed another execution petition in EP.No.28/2021 and after payment of all the due amount the said EP was closed as fully satisfy thereafter for the arrears this present execution petition is filed by the DHR
8. It is the main contention of the JDR that the compromise decree passed in OS.No.480/2017 is illegal, her counsel, defendants i.e., present DHR's and their counsels and the mediators without informing her the contents of the compromise petition by putting threat on her they got

obtained her signature on the compromise petition and got compromise the suit. Based on that the present execution petition is filed for recovery of the arrears of due amount as per the compromise decree.

9. The present JDR was the plaintiff in OS.No.480/2017 which was ended in drawing up of compromise decree. In the said suit she has filed an application Under Order 23 Rule 3 at IA.No.4 recalling the compromise decree. On the said application enquiry is pending. Now it is the contention of the JDR that till conclusion of enquiry on the application filed Under Order 23 Rule 3 the further proceedings of this execution petition are to be stayed.
10. By perusing the records of OS.No.480/2017 it is clear that the JDR has filed an application Under Order 23 Rule 3 at IA.No.4 in OS.No.480/2017 praying to set aside the compromise decree passed in the said suit. As per the compromise enter in between the parties in OS.No.480/2017 the present JDR has to pay monthly Rs.3000/- to the DHR No.1 for payment of LIC premium and the JDR has to pay the said amount till the DHR No.1 married and also the JDR has to pay $\frac{1}{2}$ of the marriage expenses to the DHR No.1.

Now after drawing the compromise decree the JDR has not paid the LIC premium every month and she was in due of payment of LIC premium of Rs.3000/- per month. For the recovery of the arrears this present execution petition is filed.

11. The basis for filing this present execution petition is compromise decree passed in OS.No.480/2017. Now the present JDR has challenged the compromise decree before this court by filing an application Under Order 23 Rule 3 of CPC at IA.No.4 in OS.No.480/2017, the said application is still pending and enquiry is going. Till disposal of the application filed Under Order 23 Rule 3 of CPC in OS.No.480/2017 this execution petition is stayed it will not cause any loss or injury to the DHR. If not the JDR will be put to irreparable loss and injury.
12. The present application is filed by the JDR under Order 21 Rule 29 R/W/ Section 151 of CPC praying to stay the further proceedings of the execution petition. As per the provisions of Order 21 Rule 29 of CPC where a suit is pending in any court against the holder of the decree of such court or of a decree which being executed by such court on the part of the person against whom the decree was passed, the court may,

on such terms as to security or otherwise, as a things fit, stay executed of the decree until pending suit has been decided.

13. In this present case on hand, the suit in OS.No.480/2017 is filed by the present JDR against the DHR. The said suit was ended in compromise and accordingly compromise decree was passed. Now in the said suit the JDR has filed an application under Order 23 Rule 3 of CPC praying to recall the compromise decree and enquiry is pending on the said application in OS.No.480/2017. If the JDR has succeeded in proving that the compromise decree is illegal then she will not liable to pay any arrears amount to the DHR. If not the DHR is entitle to recover the arrears from the JDR. Until disposal of application filed Under Order 23 Rule 3 of CPC which is filed in OS.No.480/2017, if this executed petition is stayed it will not cause any loss or injury to the other side. No doubt, as per provisions of Order 21 Rule 29 of CPC an order to stay the executed petition a suit in between DHR and JDR must be pending, but in this case the suit is not pending but an application is filed for recalling the compromise decree is pending. Under such circumstances, the provisions of Order 21 Rule 29 is not applicable but in the

interest of justice and to protect the interest of both the parties under Section 151 of CPC this court has got power to stay the further proceedings of this executed petition till disposal of application filed Under Order 23 Rule 3 of CPC in OS.No.480/20107. Hence, I am of the considered view that it is a fit case to stay the further proceedings of this petition till disposal of application filed Under Order 23 Rule 3 of CPC in OS.No.480/2017. **Hence, I answered the Point No.1 in the Affirmative.**

14. **POINT No.2:** For the aforesaid findings, I proceed to pass the following:

ORDER

The application filed by the JDR U/o XXI Rule 29 R/W Section 151 of CPC filed at I.A.No.III is hereby allowed.

Further proceedings of this execution petition are stayed till disposal of application filed by the present JDR i.e., plaintiff in OS.No.480/2017.

Call on for 24.06.2026.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 04th day of June, 2026.)

(Umesh S. Atnure)
Prl. Senior Civil Judge Gokak.