

IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS  
JUDGE, BAGALKOTE

Present: Sri. N.V. Vijay, B.A. LL.B. (Hons.),  
Prl. District and Sessions Judge,

Dated this the 5<sup>th</sup> day of February, 2025

E.P. No.308/2019

Decree Holder

:

Sadashiva S/o Siddaram Kembhavi,  
Age: 51 years, Occ: Civil Engineer,  
R/o: No.49, 6<sup>th</sup> Cross, Vidyagiri,  
Bagalkote, Tq: & Dist: Bagalkote.

Vs.

Judgment Debtor:

: The Management of Sri. Basaveshwar  
Veerashaiva Vidyavardhak Sangh(R)  
Bagalkot, Represented by its Chairman  
and another.

**I.A. No.VII**

Applicant/D.Hr:

: Sadashiva S/o Siddaram Kembhavi,  
Age: 51 years, Occ: Civil Engineer,  
R/o: No.49, 6<sup>th</sup> Cross, Vidyagiri,  
Bagalkote, Tq: & Dist: Bagalkote.

(Sri. S.K.Magaji, Advocate)

Vs.

Opponents/J.Dr :

The Management of Sri. Basaveshwar  
Veerashaiva Vidyavardhak Sangh(R)

Bagalkot, Represented by its Chairman  
and another.

(Sri. M.A. Telsang. Advocate  
for Respondents)

**ORDER ON I.A.No.VII**

This is an application filed by the applicant/Decree Holder under Order 21 Rule 38 read with Section 151 of C.P.C praying to issue Arrest Warrant against Judgment Debtors and detain them in civil prison with the aid of concerned P.S.I till depositing the balance amount in the interest of justice.

2. In the affidavit accompanying the application it is stated that Judgment Debtors have undertaken to pay all the dues in terms of order passed by the Hon'ble Supreme Court of India in Special Leave appeal No.3393-3394/2020. In spite of the said order of the Hon'ble Apex Court the Judgment Debtors have not released the amount of 6<sup>th</sup> and 7<sup>th</sup> A.I.C.T.E. pay scale salary arrears as per the Government Order dated 18.07.2023 and 29.03.2023. Hence, prays to allow the application.

3. On the contrary, the Judgment Debtors have filed

their objections contending that they have paid the salary and other emoluments to the decree holder as par with employees working under Judgment debtors regularly by crossed demand drafts after deducting the statutory deductions. There is no lapse on the part of the Judgment debtors in payment of the amount to the decree holder at any point of time. It is further contended that even assuming that there is liability, if any, it is not the personal liability of Chairman nor the Principal and therefore, the relief of arrest warrant of Judgment debtors cannot be granted in favour of the decree holder. Moreover, there is no willful disobedience of the Orders of the Hon'ble Apex Court by the Judgment debtors. Hence, prays to dismiss the petition.

4. Heard the arguments.

5. The point that arise for my consideration is as:

***Whether the I.A.No.VII needs to be allowed?***

6. My answer to the above point is in the negative for the following:

**REASONS**

7. On perusal of records there is no dispute to the fact that the Judgment Debtors have been regularly depositing the salary of the Decree Holder as per the directions of the Hon'ble Supreme Court and the same is also being withdrawn by the decree holder. The present application is filed pertaining to the arrears of 6<sup>th</sup> and 7<sup>th</sup> AICTE pay scale salary arrears, which pertains to salary arrears prior to termination i.e., 30.04.2015 as per the E.A.T. Order No.4/2015.

8. In my opinion, the order passed by the Hon'ble Apex Court in Special Leave appeal Nos.3393-3394/2020, relates to the undertaking given by the Judgment Debtors for payment of salary and arrears subsequent to termination i.e., 30.04.2015. Therefore, the Judgment Debtors would not be liable to pay the salary arrears prior to termination with respect to 6<sup>th</sup> and 7<sup>th</sup> AICTE pay scale arrears prior to termination.

9. It is also pertinent to note that the Judgment Debtors have filed a memo along with a letter written by

the Judgment Debtors to the Commissioner, Department of Technical Education to release the 6<sup>th</sup> and 7<sup>th</sup> AICTE pay scale arrears vide letter dated 9.03.2024 and E-mail dated 5.03.2024 along with an Annexure No.4, which contains the name of the present Decree Holder. Therefore, steps have been initiated by the Judgment Debtors requesting the Commissioner, Department of Technical Education to release the salary arrears of Decree Holder along with other employees who are working in the institution of Judgment Debtors.

10. Hence, I am of the opinion that the Judgment Debtors are not liable to pay arrears of salary to the tune of Rs.1,73,969/- as claimed by the Decree Holder in the present application. Hence, it has to be held that Judgment Debtors are not liable to pay any balance relating to arrears of salary with respect to 6<sup>th</sup> and 7<sup>th</sup> AICTE pay scale. Therefore the present application is devoid of any merits is liable to be rejected. Accordingly, the point under discussion is answered in negative and I proceed to pass the following:

ORDER

The application under I.A.No.VII filed by the applicant/DHr under Order 21 Rule 38 read with Section 151 of C.P.C is hereby dismissed.

(Dictated to the Stenographer Grade-1, transcribed and typed by him, script corrected, signed and then pronounced by me in the open court on this the 5<sup>th</sup> day of February, 2025.)

(N.V. Vijay)

Prl. District and Sessions Judge, Bagalkote.