

KABK200015912022



**IN THE COURT OF ADDL SENIOR CIVIL JUDGE & JMFC
At: MUDHOL.**

PRESENT

Sri. Vivek Gramopadhye, B.S.L.LL.B.
Addl.Senior Civil Judge & JMFC.,
Mudhol.

Execution NO:84/2022

DATED: THIS THE 26th DAY OF June 2025

Decree Holder:

1. **Shri.Vijay S/o Chandrashekhar Sullad**
Age : 49 years, Occ: Business,
R/O : Bindargi Oni, Ganesh Peth, Hubballi.

(Rep. by Sri.L.S.D. Advocate)

- V/s -

Judgment debtors:

1. **Shri.Raghavendra S/o Pralhad Joshi**
Age: 60 years, Occ: Agriculture & Vastu Consultant
R/o: Pralhad Niwas, Anand Nagar,
Mudhol-587313, Tq: Mudhol, Dist: Bagalkote

2. **Smt.Jayashree W/o Raghawendra Joshi**
Age: 45 years, Occ: Household work,
R/o: Pralhad Niwas, Anand Nagar,
Mudhol-587313, Tq: Mudhol, Dist: Bagalkote

**(Jdr.1 is placed ex-parte
Jdr.2 is absent)**

ORDERS ON IA NO.VI

**DECREE HOLDERS : SHRI.VIJAY S/O CHANDRASHEKHAR
SULLAD**

V/S.

**JUDGMENT DEBTOR : SHRI.RAGHAVENDRA S/O PRALHAD
JOSHI AND ANOTHER**

ORDERS ON IA NO.VI

Learned advocate for the D.Hr has filed IA No.VI under Order XXI Rule 64 of C.P.C seeking for sale of attached properties as detailed in the application by way of public auction belonging to the J.Dr No.1.

2. In the affidavit accompanying the application, it is stated that O.S No. 173/2018 came to be filed seeking for the relief of specific performance of the contract and in the said suit refund of earnest money was ordered vide judgment dated 23.01.2020 and in furtherance of the said order, the present execution

petition is filed. It is further stated that already the properties as detailed in the application are attached, but in-spite of the attachment of the property, the J.Dr No.1 has not paid the decreetal amount and is postponing the payment of the amount on one pretext or the another. Therefore, for recovery of the decreetal amount, it is necessary to sell the properties as detailed in the application which are standing in the name of J.Dr No.1 and 2 for recovery of the decreetal amount and hence, seeks for allowing of the application.

3. It is relevant to note that the J.Dr No.1 and 2 are placed ex-parte and I.A. was filed by the Learned Advocate for the D.Hr under Order XXI Rule 54 of C.P.C. seeking for attachment of the property as per order dated 12.11.2024 and in-spite of executing the said proclamation with respect to settlement of sale, the J.Drs have remained absent. Thereafter, Learner advocate for D.Hr has filed the IA No.VI seeking for sale of the property.

4. Heard learned advocate for Dhr, the Jdrs are absent.

5. The following points that arise for my consideration:-

1. Whether IA filed U/O XXI Rule 64 of C.P.C by learned advocate for the D.hr deserves to be allowed?

2. What order?

6. My answer to the above points are as under:

Point No.1 : In the Affirmative

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

REASONS

7. **Point No.1:-** This execution petition is filed in furtherance of the Judgment and decree passed by Hon'ble Pril. Senior Civil Judge and C.J.M. Dharwad in O.S No.173/2018 dated 23.01.2020 whereby the Hon'ble Court has decreed the suit of the plaintiff seeking for the relief of specific performance in part and directed the refund of earnest money of Rs.13,50,000/- at the rate of interest of 12% per annum. In furtherance of the said decree, execution petition came to be filed before the said court and said court in Execution Petition No.26/2022 has issued decree transfer certificate to this court and in furtherance of the said decree transfer certificate, this execution petition is filed.

8. It is relevant to note that in- spite of due service of notice to the J.Drs they have remained absent and even after execution of the attachment of the property the J.Drs have

remained absent. The Learner advocate for the D.Hr submits that for due recovery of the amount sale of the attached properties is absolutely necessary and hence, prays for allowing of the application.

9. It is relevant to note that the property bearing Survey No.2A/1 is already attached in Execution No.68/2021 and another property bearing Survey No.2A/4 is also attached in Execution No.68/ 2021. There are Plot properties bearing Survey No.2B, Plot No. 2 to 6 and the said properties are sought to be sold for due satisfaction of the decree passed by this Court.

10. The Learned Advocate for the D.Hr has furnished his approximate valuation of the said plot properties at 4000 per square meter and taking that into consideration and in the facts and circumstances of the case, if only plot No.2, 3 and 4 are ordered to be sold in public auction, the due satisfaction of decree will be possible and hence, I am of the opinion that IA filed by Learned Advocate for the D.Hr under Order XXI Rule 64 of C.P.C deserves to be partly allowed and hence, I answer Point No.1 partly in the affirmative in favour of the D.Hr.

11. **Point No.2:-** Therefore, I proceed to pass following,

ORDERS

IA filed U/O XXI Rule 64 of C.P.C by learned advocate for the Dhr is hereby partly allowed.

Issue proclamation of sale of the property by public auction as detailed below,

“1. N.A R.S No.2/B Plot No.04 measuring 9.00x12.00 meter, i.e 108-00 Sq. Meters. Situated at Zunjarakoppa village, Tq: Mudhol, Dist: Bagalkote.

2. N.A R.S No.2/B Plot No.03 measuring 9.00x12.00 meter, i.e 108-00 Sq. Meters. Situated at Zunjarakoppa village, Tq: Mudhol, Dist: Bagalkote.

3. N.A R.S No.2/B Plot No.02 measuring 12.00x12.00 meter, i.e 144-00 Sq. Meters. Situated at Zunjarakoppa village, Tq: Mudhol, Dist: Bagalkote.”

The proclamation shall be drawn in accordance with Order XXI Rule 66 of C.P.C. in Kannada Language, specifying the time and place of the sale, date of spot sale and court sale, description of the property, amount to be recovered, encumbrances on

the property, value of the property as per D.Hr.

The spot sale shall take place on 21.07.2025 at 11.00 A.M.

The proclamation shall also be published in 'Vijaya Karnataka' daily news paper at the cost of the Dhr as per the mandate of Order XXI Rule 67 of C.P.C and also on the notice board of the court, C.M.C, Mudhol and place adjacent to the property.

The court sale shall take place on 30.07.2025 at 2.45 P.M.

(Dictated to the Stenographer, transcribed by her, transcript revised by me, corrected, signed & then pronounced in the Open court on this the **26th day of June 2025**)

(VIVEK GRAMOPADHYE)
Addl. Senior Civil Judge & JMFC,
Mudhol.

