

Ex.No.14/2018

19-07-2023

DHR - P.V.R.
JDR No.1,2,5,7 to 10-
JDR No.10(2),10(8) - Exparte
JDR No.3,4,9 - P.L.A.,
Objector Aplnt - N.M.M.,

■ FOR ORDER

ORDERS ON I.A. DATED 09.06.2023 FILED UNDER
ORDER 1 RULE 10(2) R/w.Sec.151 OF C.P.C.

The instant application has been filed by one Sri. Narasimhamurthy S/o Late Narasimhaiah to implead him as objector in the present execution petition.

2. In the affidavit it is stated that the Decree Holder has obtained decree dated 23.03.2018 for recovery of an amount of Rs.12,00,000/-. The applicant has not received any advance amount under the agreement of sale. The Decree Holder filed an application U/o.21 Rule 54 of R/w.Sec. 151 of C.P.C seeking attachment of property belonged to JDRs as well as the applicant. It is just an necessary to implead the applicant as objector in the petition. Hence prayed to allow the application.

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3. The counsel for Decree Holder filed objection by stating that the application is not maintainable under law and filed only to delay the proceeding. It is nowhere stated in the affidavit or the application that how the applicant is related to the property under attachment. Hence prayed to reject the application.

4. Heard both sides and perused the written synopsis.

5. **The following points would arise for my consideration:**

1. Whether the applicant made out grounds to implead him as objector in the present petitioner ?
2. What order?

6. **My answer to the above points are as follows:**

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

Point No.2 : **As per final Order**

for the following :

REASONS

7. **Point No.1:** It is the case of the applicant that an application has been filed by the Decree Holder U/o.21 Rule 54

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of C.P.C for attachment of certain properties, which includes the property of the applicant. On the other hand the Decree Holder has contended that the application is filed only to delay the proceedings.

8. On going through the entire records of the case it is clear that the present Execution Petition has been filed on the basis of Judgment and Decree passed in O.S.No.348/2008 dated 23.03.2018 for recovery of money of Rs.12,00,000/- along with interest. It is true that the Decree Holder has filed I.A. U/o.21 Rule 54 for attachment of certain properties. It is observed in the order sheet dated 21.09.2022 that certain properties belong into the JDRs have been proposed in the application for attachment and the name of one Narasimhamurthy is also appear in the RTCs. During the course of his arguments the counsel for the applicant has produced a gift deed dated 25.11.2015 which shows that some of the of the Judgment Debtors along with the present applicant have received the gift from the Judgment Debtor No.1. It is pertinent to note that, the suit was filed in the year 2008 and the alleged gift deed dated 25.11.2015 is clearly hit by lis-pen- decy. The applicant is not claiming any independent title from the Judgment debtors.

9. In the application or the affidavit the applicant has not stated even a single word that how he has acquired any of the house properties. It is not stated in the application that

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what are the properties on which he is claiming lawful right independently from the Judgment debtors. It appears that the application is filed only to delay the proceedings. The relief is not sought under Order 21 Rule 97 of CPC and only prayed to implead the applicant as objector to the petition, which is unknown to the law. Moreover, the court will have to decide the application filed U/o.21 Rule 54 of C.P.C on merit and if the properties proposed to be attached are not attachable, the court will consider the same at the time of deciding the said application. Hence, there is no grounds to allow the application. Therefore I answer **Point No.1 in the Negative.**

10. **Point No.2** : In view of above findings, this court proceeds to pass the following.

O R D E R

I.A. dated 09.06.2023 filed U/o.1 Rule 10(2) R/w.Sec.151 of C.P.C is hereby rejected with cost of Rs.1000/-.

**Call on for hearing on IAs,
filed U/o.21 Rule 54 of C.P.C
by :10.08.2023.**

**Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.**