

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri. Arun Kumar.G. B.A., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 24th day of January 2026

Ex.No.10/2022 (Old No.39/2020)

Decree holder/s : Sri.Chetan P Tayal & Anr.

- V/s -

Judgment Debtor/s: Smt.Motamma & Anr.

i. Provision under which the application is filed.	Under Order 21 Rule 26 R/w section 151 of CPC
ii. Relief sought for	To stay the proceedings of the judgment and decree
iii. The date on which the application is filed	5-11-2025
iv. The date on which the objections are filed by opponent	22-11-2025
v. The date on which the orders were passed on the said application.	24-01-2026

ORDERS ON I.A.NO.2

When the case was posted by issuing the commissioner warrant for execution of the sale deed in favour of decree holder through court commissioner, the judgment debtor has

filed the above application under Order 21 Rule 26 R/w Section 151 of CPC stating that the judgment and decree has to be stayed till further proceedings.

2. In the annexed affidavit it is stated that the decree holder has filed the above petition to get the sale deed as per the judgment and decree obtained in O.S.No.1174/2009. The property in question was originally granted to the husband of the judgment debtor No.1 under PTCL Act. Hence, the said decree is null and void in the eye of law and cannot be executed against the judgment debtors. They have challenged the said judgment and decree by filing proceedings under the PTCL Act in PTCL Appeal No.44/2025 which is pending for consideration. The decree holder by colluding with the judgment debtor No.2 have obtained the decree by misleading the court. Hence, the said decree is not maintainable and a serious dispute has been raised and serious allegations are made against the decree holders. Hence, an enquiry has to be conducted and to stay the execution proceedings till full fledged trial. Hence, prays to allow the application.

3. The decree holder filed objections to the above application wherein they have stated that the judgment debtors are the owners in possession and enjoyment of the schedule property. They have executed an agreement to sale in favour of decree holders but, they have not come forward to execute the registered sale deed. Hence, they have filed a suit in O.S.No.1174/2009 and obtained the decree. Now, the judgment debtors filed the above application stating that they have already approached the Assistant Commissioner by invoking the provision under PTCL Act for restoration of the land and sought for stay of the proceedings without challenging the judgment and decree in any other appeal. Hence, the reasons stated in support of the application is infructuous and the same is liable to be rejected.

4. Based upon the above contentions the following points arise for consideration of this court:

1. Whether the judgment debtors have made out grounds to allow the application ?
2. What order?

5. Heard arguments of both the sides and on due perusal of the records, the court findings on the above points are as under:

Point No.1	:	In the Negative,
Point No.2	:	As per the final order for the following;

REASONS

6. **Point No.1:-** The above petition is filed on the judgment and decree passed in O.S.No.1174/2009 dated 9-1-2019 wherein the decree holder has obtained the judgment and decree against the judgment debtor for the relief of specific performance of contract on the agreement to sale executed by the judgment debtor on 24-11-2006.

7. On perusal of the above judgment and decree though the suit summons was served on the judgment debtor have not filed any written statement though they were appeared through counsel. In the affidavit the judgment debtor stated that the decree holder and the judgment debtor No.2 by colluding themselves have created the documents and obtained a fraudulent decree which is having irregularity in the proceedings. Therefore, it requires a full fledged trial.

8. But, on perusal of available records the judgment debtors were appeared through counsel in the original suit but, they have not filed any written statement. It clearly goes to show that though they are having knowledge about the proceedings of O.S.No.1174/2009 till this date they have not challenged the same and also not filed any appeal before the appellate court.

9. Here in this petition the judgment debtors have not made out any reasonable grounds to stay the further proceedings of this petition. Furthermore, in the affidavit they have not stated that they have preferred any appeal against the said judgment and decree. Therefore, if the judgment and decree is stayed no purpose would be served and the decree will become infructuous. Furthermore, the decree holder may put to great loss and injustice. Further, the decree holder has already paid the balance sale consideration before this court. Therefore, the application filed by the judgment debtors is not maintainable. Hence, I answered point No. 1 in the “**Negative**”.

10. **Point No.2:-** In view of the aforesaid findings on point No.1, I proceed to pass the following:

ORDER

I.A.No.2 filed under Order 21 Rule 26 R/w
Section 151 of CPC by the judgment debtors is
hereby rejected with costs.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in the open court on this the 24th day of January 2026.)

(Arun Kumar.G)
Senior Civil Judge & JMFC,
Hosakote.

