

IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND
J.M.F.C., HIRIYUR

Present: Smt. Nisarathbanu Babasaheb Shaikh,
B.A., LL.B.,
Prl. Civil Judge and JMFC.,

Dated this the 4th day of February, 2020

Execution Petition No.22 / 2019

Decree Holders : P. Thippeswamy S/o Papanna,
Aged about 65 years, R/o Gadi
Thippeswamy House,
Siddanayaka Circle,
Babbu Road, Hiriya Town.

//Versus//

Judgment Debtors: 1] Ganga Malamma W/o
Rangappa, Aged about 68 years,

2] Dandamma W/o Durgappa,
Aged about 53 years,

Both are resident of Ward No.17,
A.K. Colony, Hiriya Town.

ORDER ON APPLICATION FILED UNDER ORDER 21
RULE 35[1] AND [3] AND READ WITH SECTION 151
OF CPC

The D.Hr., filed this petition and prayed that, direct the J.Drs., to remove the hut and deliver the vacant possession of the petition schedule property to the D.Hr.

2] Brief facts stated in the affidavit by the D.Hr., is as under :-

The D.Hr., submits that, he filed the suit for the relief of declaration and for recovery of possession of the suit schedule property in O.S. No.196/2015. After trial this Court passed Judgment and Decree in favour of D.Hrs. In the Judgment and Decree, this Court declared that, the D.Hr., is the owner of petition schedule property and further directed the J.Drs., to hand over the vacant possession of the suit schedule property by removing the hut within 3 months from the date of the Judgment. Till today J.Drs., not handed over the vacant possession of the schedule property, therefore D.Hr., filed this petition.

3] After service of notice, the J.Drs, neither the represent the case nor contested the petition and they placed absent.

4] Heard counsel for petitioner.

5] Perused the entire records. The D.Hr., produced the certified copy of the Judgment and Decree passed in O.S. No.196/2015, which is disposed-off on 17.06.2019. As per the said Judgment and Decree this Court declared that, plaintiff is owner of suit schedule property. It is further ordered and decreed that, defendants are hereby directed to vacant suit schedule

property within period of 3 months from the date of this Judgment. In case defendants failed to hand over the vacant possession of suit schedule property within stipulated time, plaintiffs can get recover the possession of suit schedule property through process of Court.

6] The D.Hr., filed this execution petition to get execute the Judgment and Decree passed by this Court. The J.Dr. No.1 and 2 after service of notice neither appeared before this Court nor contested the case, they placed absent. There is no intimation to this Court that, aggrieved by the Judgment and Decree passed by this Court, the J.Drs., preferred an appeal before the Appellate Court. Moreover this Court passed a Judgment and Decree on 17.06.2019 and granted the time of 3 months to vacate and hand over the possession of the property. The act of the parties shows that, the J.Drs., are not intended to comply the order of this Court. Under such circumstances, the remedy available to the D.Hr., is to get execute the Decree through Court. Therefore, this Court proceed to pass this following :

ORDER

The application filed by the D.Hr., U/O 21 Rule 35[1] and [3] read with Section 151 of CPC is hereby allowed.

(Dictated to the Stenographer, directly on Computer and typed by him. The same is corrected, signed and then Order pronounced by me in open Court on this the 4th day of February, 2020)

(Nisaratanu Babasaheb Shaikh)
Prl. Civil Judge and JMFC,
Hiriyur.