



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC  
AT N.R.PURA, ITINERATE AT KOPPA**

**Present:** Sri Raghunatha Gowda K.T., B.Com.,L.L.B,  
Senior Civil Judge & JMFC., N.R.Pura, Itinerate at Koppa.

**Dated this the 7<sup>th</sup> day of March, 2025**

**Ex. No.117/2023**

**Decree Holder :** The Managing Director/  
The Chikkamagaluru District Co-  
operative Central Bank,  
R.G. Road, Chikkamagaluru.

(By Sri D.R.C., Advocate)

**V/s**

- Judgment Debtors :**
1. Sri E.S. Dharmappa,  
S/o Sheshappagowda,  
President TCS Koppa,  
R/o Echaliblylu, Bandigadi,  
Koppa, Chikkamagaluru Dist.,
  2. Sri Venkataram,  
S/o Nanjunda Bhat,  
Vice President TCS Koppa,  
R/o Hullimakki, Koppa Taluk.
  3. Sri G.R. Vishwanath,  
S/o Ramannagowda,



Managing Director TCS Koppa,  
R/o Gumata, Shedgar Post,  
Thirthahalli Post,  
Shimogga Dist.,

4. Smt. Arathi,  
Director TCS Koppa,  
R/o Indira Nagara,  
Ashraya Badavane, Koppa.
5. Sri Ramesh,  
S/o Y. Kattappagowda,  
Director TCS Koppa,  
R/o Indira Nagara,  
Ashraya Badavane, Koppa.
6. Sri Kattedgowda,  
S/o Chinnegowda,  
Director TCS Koppa,  
R/o Alehalli, Megaramakki,  
N.R.Pura Taluk.
7. Sri Vijayakumar,  
S/o Sanjeeva,  
Director TCS Koppa,  
R/o Kattinamane, Kanuru,  
N.R.Pura Taluk.
8. Smt. Shobha,  
W/o Krishnamurthy,  
Director TCS Koppa,



R/o Gayathri Nagara, Koppa.

9. Sri Suresha R.,  
S/o Rangappa,  
Director TCS Koppa,  
R/o Andagar, Koppa Taluk.
10. Sri Jagadish B.C.,  
S/o Chinnappagowda,  
Director TCS Koppa,  
R/o Bengilu, Niluvagilu,  
Koppa Taluk.
11. Sri Ravindra K.S.,  
S/o Suranayak,  
Director TCS Koppa,  
R/o Sugodu, Hosanagara,  
Hosanagara Taluk,  
Shivamogga District.

**Applicant/Objector :** Regional Provident Commissioner,  
Employees Provident Fund  
Organization,  
Regional Provident Fund Office,  
Bhavishya Nidhi Bhavana,  
K.H.B., 5<sup>th</sup> Phase,  
Chikkamagaluru – 577 102.

(Jdr No.1 represented by Sri M.N.S., Advocate, Jdr No.2 to  
11 represented by Sri M.H.N., Advocate, Objector  
represented by Sri VTT, Advocate)



**I.A. No.I**

**Applicant/Objector :** Regional Provident Commissioner,  
Employees Provident Fund  
Organization,  
Regional Provident Fund Office,  
Bhavishya Nidhi Bhavana,  
K.H.B., 5<sup>th</sup> Phase,  
Chikkamagaluru – 577 102.

**V/s**

**Opponent/petitioner: D.C.C. Bank, Chikkamagaluru**

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

Applicant / objector has filed this application under Order XXI Rule 58 R/w. Section 151 of C.P.C. to permit him raise the claim / objections to the execution petition filed by the decree holder.

2. The objector / applicant has filed this application along with affidavit, he contended that he is the Regional Provident Fund Commissioner of the Employees Provident Fund Organization at Chikkamagaluru. Further he contended that M/s. Transport Co-operative Society (TCS), Koppa is an



establishment covered under the employees provident fund and Miscellaneous Provisions Act 1952 under code No.KN/CKR/16777 and has departed in payment of EPF dues under Section 7(a), 14(b) and 7(q) of the Act the TCS, Koppa were not paying the P.F. contribution towards the employees of the department and as on 30.06.2023 the TCS, Koppa is due an amount of Rs.66,69,722/- to the provident fund department.

3. Further he contended that the Regional Provident Fund Office issued an attachment of warrant to the immovable properties bearing Sy. No.28, new Sy. No.97, which is converted for non-agricultural purpose. Further the E.P.F.O., is a social security providing agency of the Government, the scheme as framed to protect the social security benefits of workers and as per Section 11 of the E.P.F. and M.P. Act priority of payment of contribution over other days, the P.F. Office has issued E.P.F., certificate of proceedings as empowered Section 8(g) of E.P.F. and M.P. Act to the Tahsildar, Koppa to attached the immovable property.

4. Further he contended that C.V.C.C. Bank Ltd., had filed a case with Joint Registrar of Co-operative Societies and



got an order of attachment in case No.JRM/DDS/97/2021-22 against Sy. No.97. Further he contended that based on the order of Joint Registrar the execution petition is filed and as per Section 11 of E.P.F. and M.P. Act the first charge can be created to the Employees Provident Fund Organization and if the property is attached belongs to J.Dr and sold it will great loss and hardship caused to the objector and finally the employees will be suffers so that reason he filed this application to implead the objector in the execution petition. Hence, he prays to allow this application.

5. The decree holder filed objection to the said application contended that the application filed by the objector / applicant is not maintainable either in law or facts. Further already the decree holder obtain the attachment order in case No.JRM/DDS-98/2021-22 and the present application filed by the objector is not tenable and the objector colluded with the judgment debtor has filed the present application. Hence he prays to reject the application filed by the applicant.

6. Heard arguments of both side.

7. On careful perusal of the records the following points would arise for my consideration:



1. Whether application filed by the applicant/objector deserves to be allowed or not?
2. What order ?

8. My finding on the aforesaid points for consideration is:

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

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

### **REASONS**

9. **Point No.1:** The objector filed this application contended that to create first charge in favour of Employees Provident Fund Organization as per Section 11 of E.P.F. and M.P. Act 1952. The said Act is protect the welfare of the employees / workers and the said organization is necessary party. On perusal of entire records, the decree holder filed this execution petition the order passed by the Joint Director Co-operative Society in JRM/DDS/98/2021-22, dated 21.02.2022. Based on the said order the present execution petition is filed. Further as per Section 11 of the Employees Provident Fund and Miscellaneous Provisions Act 1952 states as under;



10. Section 11 in The Employees' Provident Funds And Miscellaneous Provisions Act, 1952 is as follows;

11. *Priority of payment of contributions over other debts.—*

*(1) Where any employer is adjudicated insolvent or, being a company, an order for winding up is made, the amount due—*

*(a) from the employer in relation to an establishment to which any Scheme or the Insurance Scheme applies in respect of any contribution payable to the Fund or, as the case may be, the Insurance Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme or the Insurance Scheme; or*

*(b) from the employer in relation to an exempted establishment in respect of any contribution to the provident fund or any insurance fund in so far it relates to exempted employees, under the rules of the provident fund or any insurance fund, any contribution payable by him towards the Pension Fund under sub-section (6) of section 17, damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17, shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (3 of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920), or under section 530 of the Companies Act, 1956 (1 of 1956) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.*



*Explanation.— In this sub-section and in section 17, “insurance fund” means any fund established by an employer under any scheme for providing benefits in the nature of life insurance to employees, whether linked to their deposits in provident fund or not, without payment by the employees of any separate contribution or premium in that behalf.*

*(2) Without prejudice to the provisions of sub-section (1), if any amount is due from an employer whether. in respect of the employee’s contribution (deducted from the wages of the employee) or the employer’s contribution, the amount so due shall be deemed to be the first charge on the assets of the establishment, and shall, notwithstanding anything contained in any other law for the time being force, be paid in priority to all other debts.*

As per above said Section makes it clear that the priority of payment of contribution over other debts. In the present case M/s. Transport Co-operative Society (TCS), Koppa is an establishment covered under Employees Provident Fund and Miscellaneous Provision Act 1952 under code No.KN/CKR/16777, the said fact was not disputed by the decree holder the only contention of the decree holder that already the attachment of property was in force, the objector has no right to create first charge over the property.



11. On careful perusal of the records the TCS, Company was closed and in default of payment the decree holder obtain the order and seeking attachment of the immovable property as mentioned in the schedule. Further while considering the application of the objector as per Section 11 of E.P.F. and M.P. Act 1952 the priority given to the payment of contribution over other debts and where any employers is adjudicated insolvent the amount due from the employer in relation to an establishment to which any scheme or the insurance scheme applied in respect of any contribution payable to the fund and the priority will be given to the employee. Further at this juncture if the objector came on record and adjudicate the execution petition the court will ascertain that who will be entitle for first priority to attachment of the property and recover the amount from judgment debtor. Further in order to protect the right of the objector and in order to comes to proper conclusion the objector is necessary party to the adjudicate the execution petition. Hence for the



above said reason my answer to **point No.1 in the Affirmative.**

12. **Point No.2:** In view of answer to point No.1 in the affirmative and I pass the following:

**ORDER**

I.A. No.I filed by the objector / applicant under Order XXI Rule 58 R/w. Section 151 of C.P.C is hereby allowed.

Consequently permitted to objector to contest the petition.

(Typed to my dictation by the stenographer directly on Computer, then corrected, printout taken, signed by me and then pronounced in the open court on this 7<sup>th</sup> day of March, 2025)

Sd/-

**(Raghunatha Gowda K.T.)**  
Senior Civil Judge and JMFC.,  
N.R.Pura, Itinerate at Koppa.