



Ex. No.41/2022

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND  
J.M.F.C., TARIKERE**

**Present :**  
**SRI VAIDYA SHREEKANT,**  
*B.Sc, LL.B.*  
SENIOR CIVIL JUDGE & JMFC.,  
Tarikere.

**DATED: THE 6<sup>th</sup> DAY OF DECEMBER 2025**

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**DECREE HOLDER/S:**

T.K. Prakash S/o T.S.  
Krishnamurthy, aged about 44  
years, Agriculturist, R/o  
Chowdeshwari Colony, Tarikere  
Town.

**(By Sri. T.L. Prakash, Advocate)**

**- Vs -**

**JUDGMENT DEBTOR/S:**

T.G. Annaiah S/o late  
Govindappa, aged about 65  
years, Businessmen, R/o  
Venkatarayara Street, Tarikere  
Town.

**(Absent)**

**ORDER ON IA No.X AND XI**

**OBJECTOR/S:**

(SPA of Objector)

Manjunath S/o Krishnappa,  
aged about 43 years, R/o Kote  
Camp, Tarikere Town.

**(By Sri. B.G.R., Advocate)**



- Vs -

**OPPONENT/S:**

T.K. Prakash (D.Hr.)

**COMMON ORDER ON APPLICATION FILED UNDER  
ORDER 21 RULE 58 AND APPLICATION FILED UNDER  
ORDER 21 RULE 59 OF CPC**

The above applications are filed by one Manjuth S/o Krishnappa of Tarikere Town alleging that he is SPA Holder of objector without mentioning the particulars of the objector praying this court to order for release of the attached property and also to stay the sale of attached property.

2. In the affidavits annexed to applications, the above said person deposed that he being the objector knows the facts of the case. The decree holder herein obtained an order for attachment of the property which is in actual possession of his family. They have been in possession of the said property since 1990 and have erected a shed in the property for running the shop. The Judgment debtor had tried twice during the year 1994-95 by illegal means to dispossess them from the attached property but unable to do so. When the said attempt met with failure, then the Judgment debtor demanded for exorbitant money then that was taken by the said Smt. Susheelamma from the Judgment debtor and they have refused to pay money demanded illegally.



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3. It is further deposed that the Judgment debtor left Tarikere 15 years back and is staying at Mysore. He has doubt as to payment of money by the decree holder to the Judgment debtor and in turn, issuing of alleged cheque by the Judgment debtor to the decree holder as the Judgment debtor has no business of any kind of transactions with any one-else in Tarikere since he left the place. Therefore, decree obtained itself is doubtful and collusive in nature.

4. Earlier, his father Krishnappa has purchased property situated adjacent to the attached property from its previous owner Smt. Susheelamma. At that time, Smt. Susheelamma handed over attached property in favour of his family and since then his entire family is in possession of the property openly claiming as owners and without interference of anybody. They have perfected their title by way of adverse possession over attached property. The electric meter installed in the shed is standing in the name of Smt. Susheelamma W/o Krishnappa since 1992-93. Earlier, it was in the name of Gowramma who happens to be his grandmother.

5. The decree holder has got knowledge of their family's exclusive possession over attached property. Smt. Susheelamma might have executed a so called sale deed in favour of alleged Judgment debtor towards security for some loan but the same was not within the knowledge of



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his family. The Judgment debtor had the sale deed without delivery of possession of attached property. Thus, the alleged sale deed executed in favour of the Judgment debtor is without possession. Thus, the Judgment debtor is not the real owner and in possession of the property alleged to be purchased by him. He is not having any right or salable interest over the attached property. Hence, the property belonged to him cannot be attached for any purpose much-less for recovery of debt.

6. It is further deposed that the attached property is valuable and the claim in execution petition is very less compared to attached property. If attachment of the property in this case is not recalled, his family would be put to untold hardship and inconvenience as his family's valuable rights are involved. On the other hand, no harm or prejudice would cause to decree holder. On these grounds, the objector objected for attachment and sale of the property.

7. The applications came to be objected by decree holder. He contended that both applications are not maintainable either in law or on facts. Hence, same are liable to be rejected in limine. This court after full fledged trial dismissed similar application filed by very objector at IA No.IV with exemplary cost of Rs.10,000/-. After dismissal of IA No.IV, the objectors filed WP No.14429/2025 on the



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file of Hon'ble High Court of Karnataka questioning the order of this court. Subsequently, they filed memo seeking withdrawal of the writ petition. Based on the memo, the writ petition was dismissed as withdrawn on 18.08.2025.

8. Now the objectors once again filed applications seeking the same relief that too after agitating the matter before Hon'ble High Court of Karnataka. The objections as to objector attained the finality and by suppressing dismissal of writ petition, the objector herein filed similar applications. The filing of very applications amounts to interference in Administration of justice and it is nothing but abuse of process of law. The objectors being father and son colluded with each other and on one or other reasons have been objecting attachment and sale of the property and thereby restrained the decree holder from enjoying the fruits of the decree. Hence, both applications are not maintainable and are liable to be rejected.

9. Heard the counsel for decree holder. The objector failed to advance arguments on both applications.

10. In the facts and circumstances of the case, the following points arise for consideration of this Court :

**:- POINTS :-**

1. Whether the objector proves that the application schedule property belongs to his family?



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2. Whether they prove that the decree holder cannot attach the said property and it cannot be sold in public auction?
3. Whether he made out reasonable grounds for recall of attachment order?
4. What order?

11. On hearing both sides and appreciating the material available on record, I answer the above points as under;

Point No.1: In the Negative

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: As per final order  
for the following;

### **REASONS**

12. **POINT No.1 TO 3:-** All these points are taken up together for common discussion to avoid the repetition of facts and circumstances of the case.

The decree holder herein filed an application under order 21 Rule 54 of CPC and based on the application the property bearing No.4127/4018 and new number 4-1-15 belonged to Judgment debtor ordered to be attached. As per the order of this court, the above referred property was attached and the report was submitted before this court regarding attachment of the property on 21.06.2025.



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Subsequently, the sale notice, proclamation were issued by this court. Meanwhile, the objector herein filed these applications.

13. I have gone through the applications referred above carefully. In the application one Manjunath S/o Krishnappa shown himself as SPA of objector. In para No.1 of the affidavit also, he deposed that he is SPA of objector. But immediately in second para he stated that he himself is the objector and knows the facts of the case. No documents of any kind are produced with these applications and the objector is not specific as to whether he himself is the objector or he is the SPA holder of his father Krishnappa.

14. Let is be, in earlier occasion the father of the present applicant namely Krishnappa S/o Borappa and his another son namely Ashok S/o Krishnappa filed similar application under order 21 Rule 58 of CPC. They contended that the petition schedule property i.e., the property bearing Assessment No.4127/4018 belonged to them. Either the decree holder or the Judgment debtor are noway concerned to the said property. Smt. Susheelamma absolutely had no right or title to execute the sale deed in respect of the above referred property which belonged to objector No.2.

15. After full fledged trial and after recording evidence of both parties, this court rejected the application filed by the father and brother of present objector. In para No.18



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and 19 of the order, this court considered all relevant documents and held that the earlier objectors are noway concerned to the property attached. The relevant paras are reiterated for better understanding of the facts and circumstances.

**“Para No.18:** *The Ex.P-1 is the certified copy of the Will Deed executed by Smt. Gowamma @ Doddamma dated 06.06.1990. In the said document, the Assessment number of the house property is clearly mentioned as 3497/3782. The Ex.P3 is the certified copy of the sale deed alleged to be executed by Susheelamma in favour of Krishnappa, the objector No.1 herein. In the said sale deed also, the property under the sale is clearly mentioned as 3497/3782. It means, the property bearing assessment number 3497/3782 to the extent of half share bequeathed to objector No.2 and remaining half portion was bequeathed to the vendor of objector No.1. But in the application filed under Order 21 Rule 58, they clearly mentioned the old assessment number as 3498/3783, which is not at all either subject matter of the Will Deed or the sale deed referred above. It is crystal clear that the objectors are falsely claiming to be the owners of property bearing No.3498/3783.*



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**Para No.19:** Furthermore, Ex.P-6 is the certified copy of assessment for the year 2001-02 and it is filed by the objectors themselves. In the said document also, name of Krishnappa and Ashok the objectors herein is written against the property bearing No.4126/4017, whereas, name of Jdr is appearing against the property bearing No.4127/4018 which alleged to be the new number of property bearing assessment No.3498/3783. Viewed from any angle, there is no merit in the application filed by the objectors. The documents produced by themselves would establish that they are the owners of property bearing No.4126/4017, the old number of which is 3497/3782, but they falsely claiming to be the owners of property bearing assessment No.4127/4018 old No.3498/3783. Hence, I am of the opinion that there is no merit in the application filed by the objectors and it deserves to be rejected with exemplary cost”.

16. It is pertinent to mention here that in earlier occasion while describing the property some discrepancy was occurred. In one application the property was described as 4127/6018 and in another application the property was described as 4127/4018. In those circumstances, this court ordered the decree holder to produce E-katha of the



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property and rejected his application also. Based on the observation made in the earlier order, the fresh application was filed by the decree holder and property bearing Assessment No.4127/4018 (new No.4-1-15) which is standing in the name of Judgment debtor has been attached by this court.

17. As discussed above, the claim of the family of the objector herein is already considered and this court already held that the property referred above is noway concerned to the family of Krishnappa and his another son namely Ashok. The present applicant is none other than son of earlier objector No.1 namely Krishnappa. In the earlier occasion this court clearly observed that the objector namely Krishnappa and his son are the owners of property bearing No.4126/4017, the old number of the said property is 3497/3782.

18. Now, the another son of earlier objector No.1 namely Krishnappa came up with these applications alleging that his family is the owner of 4127/4018, whereas, they are the owners bearing Assessment No.4126/4017 as per the observation made by this court in earlier occasion. Filing of this application is nothing but abuse of due process of law as rightly argued by the counsel for decree holder.



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19. Another important aspect to be considered here is that the issue as to whether or not the family members of Krishnappa are the owners of property bearing No.4127/4018 is already considered and decided by this court which is competent to decide the issue. The counsel for objector himself filed copy of order passed in WP No.14429/2025 which clearly discloses that the above writ petition was dismissed by Hon'ble High Court of Karnataka as withdrawn. It means, the order passed by this court in earlier occasion on IA No.IV reached the finality. Hence, I am of the opinion that these applications hit by Sec.11 of CPC also. At one stretch, the present objector says that he himself is the objector and in another stretch he says he is SPA of objector. He never disclose in the application as to who is the main objector and as to who executed SPA in his favour. No single piece of document is produced with the application including alleged SPA. Viewed from any angle, there is no any merit in the application and hence I am of the opinion that these applications also deserve to be rejected. **Accordingly, I answer Point No.1 to 3 in Negative.**

20. **POINT No.4:-** For the reasons stated and findings given on point No.1 to 3, I proceed to pass the following :

### **ORDER**

I.A.No.X and XI filed by the objector  
under Order XXI Rule 57 and application



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under Order XXI Rule 58 of CPC  
respectively are hereby rejected on  
exemplary cost of Rs.10,000/-.

(Directly dictated to the stenographer, directly computerized by her, corrected and then pronounced by me in the open court on this the 6<sup>th</sup> day December, 2025.)

Sd/-  
**(VAIDYA SHREEKANT)**  
**SENIOR CIVIL JUDGE & JMFC.,**  
**TARIKERE.**



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