

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

**Present** : SMT.PAVITHRA.M.D, B.A., LL.B.,  
Civil Judge & Addl. JMFC. Tarikere.

**Ex.No.11/2019**  
**Dated this 06<sup>th</sup> day of February 2019**  
**ORDER ON IA**

The Dhr has filed this application U/Or.21 Rule 22(a) R/w Sec.151 of CPC to dispense to issuance of cause notice to the Jdrs.

2. Heard on application.

3. Perused the application in the backdrop of materials available on record. The Dhr has filed this petition for the enforcement of the decree passed in OS.No.167/2009 dated 01.04.2017. The decree passed in the said suit is within 12 years as on the date of petition. Hence, I find no impediment to issuance of cause notice to the Jdrs. Accordingly, I proceed to pass the following:

**ORDER**

The application filed U/Or.21 Rule 22(a) R/w Sec.151 of CPC is hereby allowed.

Consequently, the issuance of cause notice to the Jdrs is hereby dispensed.

*Sd/-*

**(PAVITHRA.M.D )**  
**CIVIL JUDGE AND**  
**ADDL. J.M.F.C., TARIKERE.**

**IN THE COURT OF THE CIVIL JUDGE AND ADDITIONAL  
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**Present** : SMT.PAVITHRA.M.D, B.A., LL.B.,  
Civil Judge & Addl. JMFC. Tarikere.

**Ex.No.11/2019**

**Dated this 06<sup>th</sup> day of February 2019**

**ORDER ON IA**

The Dhr has filed this application U/Or. 21 Rule 32(5) R/w Sec.151 of CPC to direct the CPI, Tarikere Rural Police Station to render police help to maintain possession and enjoyment of the Dhr over the petition schedule property and to assist the Dhr in implementing the decree passed in OS.No.167/2009 dated 01.04.2017.

2. It is averred in the affidavit annexed to the application that, the Jdrs have no manner of right, title or possession and interest over the petition schedule property. Further, they tried to obstruct to do agricultural work in the petition schedule property and also threatened that, they will not allow him to be in peaceful possession and enjoyment over the petition schedule property. Hence, the Dhr has submitted the police aid to protect his possession over the petition schedule property is necessary. Further the Dhr submitted that, the Jdrs openly declaring that, they will not obey the order of this Court. Hence, this application.

3. Heard on application.

4. Perused the application in the backdrop of materials available on record. The Dhr has filed this petition for the enforcement of the decree passed in OS.No.167/2009 dated 01.04.2017. It is the claim of the Dhr that, even after granting relief of declaration and permanent injunction in favour of the Dhr to protect his possession over the petition schedule property, the Jdrs are making hectic efforts to obstruct to the agricultural work in the petition schedule property. A true copy of acknowledgement and endorsement issued by the Lakkavalli police station on the complaint lodged by the Dhr and the contents of the said acknowledgment prima-facie shows that, the Jdrs are trying to interfere with the possession and enjoyment of the Dhr over the petition schedule property. The counsel for the Dhr has relied upon the decision reported in **(2017)15 SCC 659** between **Raja Venkateswarlu & Anr. V/s Mada Venkata Subbaiah & Anr**, the **Hon'ble Supreme Court** has held that:-

***Civil Procedure Code, 1908-Ss.47, 151 and Or.21 R.32(5)-Execution-Misquoting of provision, as in the present case where an application was filed under S.151 CPC for seeking police protection-Effect of, when the relief is otherwise permissible.***

***-The decree-holder, during the pendency of the execution proceedings, filed an application seeking police protection under S.151 CPC and the same was granted but the High Court interfered with the order holding that the application could have been filed only under Or.21 R.32- Held, non-invocation of exact provision by itself could not be a reason for rejecting the application, when undisputedly the executing court had the jurisdiction-In the present case, the appeal allowed and the order passed by the executing court restored-Practice and Procedure-Nomenclature/Form/Form of Proceedings.***

5. In the present case it prima-facie reveals that, the Jdrs are trying to interfere with the possession of the Dhr over the petition schedule property. Hence, if the police aid is granted in favour of the Dhr, no prejudice will be caused to the Jdrs. Since, if the application is allowed, no prejudice will be caused to the Jdrs. Further, the ratio laid-down in the above said decision is rightly applicable to the case on hand. Such being the facts and circumstances of the case this Court of the opinion that, it is necessary to direct the concerned police to provide police aid in favour of the Dhr to protect his possession over the schedule property. Accordingly, I proceed to pass the following:

**ORDER**

The application filed U/Or.21 Rule 32(5) R/w Sec.151 of CPC is hereby allowed.

Consequently, office is hereby directed to issue direction to CPI, Tarikere Rural Police Station to render police help in favour of the Dhr to protect his possession over the petition schedule property.

No order as to cost.

*Sd/-*

**(PAVITHRA.M.D )  
CIVIL JUDGE AND  
ADDL. J.M.F.C., TARIKERE.**