

**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.25/2019

Dated this 04th day of June 2019

ORDER ON IA.No.1

The Dhr has filed 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.4/2007 dated 21.12.2018. The decree passed in the said suit is within 12 years as on the date of petition. Hence, I find no impediment to dispense the issuance of cause notice to the Jdrs. Accordingly, I proceed to pass the following:

ORDER

The application filed the under Order 21 Rule 22(a) R/w Sec.151 of C.P.C 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
J.M.F.C., AT TARIKERE**

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

Ex.No.25/2019

Dated this 04th day of June 2019

ORDER ON IA.No.2

The Dhr has filed this application U/Or.21 Rule 32(5) R/w Sec.151 of CPC to direct the PSI, Ajjampura 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.4/2007 dated 21.12.2018.

2. It is averred in the affidavit annexed to the application that, the Jdrs No.1 and 2 have preferred an appeal before the Hon'ble Senior Civil Judge at Tarikere in RA.No.14/2019 and the Dhr also appeared through his counsel. There is no order of stay staying the judgment and decree passed in OS.No.4/2007 dated 21.12.2018. That after disposal of the suit in OS.No.4/2007, the Jdrs colluded with each other and with an intention to dispossess, the Dhr from the land they tried to interfere with his peaceful possession and enjoyment over the petition schedule property. Hence, they lodged a complaint before Ajjampura police against the Jdrs, but they advised to approach the Court of law for necessary direction. To resist the illegal act of the Jdrs and to

protect the possession of Dhr over the petition schedule properties, it is necessary to direct Ajjampura police to stop illegal activities of the Jdrs. 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.4/2007 dated 21.12.2018. It is the claim of the Dhr that, even after granting relief of 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 acknowledgment and endorsement issued by Ajjampura 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 properties. The counsel for the Dhr has relied upon the decision reported in **(2017)15 SCC 659** between **Raja Venkateswaralu & 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, I 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 decisions 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 under Or.21 Rule 32(5) R/w Sec.151 of C.P.C is hereby allowed.

Consequently, office is hereby directed to issue direction to PSI, Ajjampura Police Station to render police held in favour of the Dhr to protect his possession over the petition schedule properties.

No order as to cost.

Issue petition notice to the Jdr.

Sd/-
(PAVITHRA.M.D)
CIVIL JUDGE AND
ADDL.J.M.F.C., TARIKERE.