

IN THE COURT OF THE PRL. CIVIL JUDGE AND J.M.F.C AT TARIKERE

Ex.No. 19/2018

DECREE HOLDER

vs.

JUDGMENT DEBTOR

Sri. K. Manjappa Dead by Lrs
Smt. Sulochanamma and others

Sri. Govindappa and others

Date: 12.08.2026

Proceedings or Orders of the Judicial Officer

ORDERS ON IA.NO. XIV

1. I.A.No.XIV has been filed by the Judgement Debtors No. 1 to 5 U/o. XXI Rule 26 r/w. Section 151 of CPC with the prayer to stay the further proceedings of the execution petition till disposal of Civil Misc.No.16/2025.

2. In the affidavit appended to the application, it is contended that the present Judgment Debtors had preferred a Regular Appeal challenging the judgment and decree passed in the original suit. However, the said Regular Appeal came to be dismissed, and thereafter a Civil Miscellaneous petition has been instituted seeking restoration of the said appeal. It is contended that, in view of the pendency of the said proceedings, the present execution petition deserves to be stayed. It is further submitted that the Judgment Debtors are senior citizens suffering from serious medical ailments. It is therefore contended that this Court has ample power to stay the execution proceedings pending disposal of the Civil Miscellaneous petition. Hence, the Applicant has prayed for allowing the application.

3. Resisting the application, the Decree Holder has filed objections contending that the application is not maintainable either in law or on facts and is therefore liable to be dismissed in limine. It is contended that the averments made in the affidavit accompanying the application are false and devoid of merit. According to the Decree Holder, the Civil Miscellaneous petition has been filed only with an intention to protract the proceedings and defeat the fruits of the decree passed in the suit. It is further contended that no valid or sufficient grounds have been made out for staying the execution proceedings. On these grounds, the Decree Holder has prayed for dismissal of the application.

4. Heard both sides.

5. The Learned counsel for Judgment Debtors No.1 to 5 has produced certain documents i.e., photographs, copy of letter issued by Irrigation Department, copy of village map, copy of application filed by Sulochanamma, copy of Haddubast Nakshe, copy of mahazar and copy of RTCs in support of his contention.

6. Having heard and after perusal of materials placed on record, the sole point that would arise for my consideration is as under –

“Whether the Applicants/ Judgement Debtors No.1 to 5 have made out sufficient grounds to allow the application in I.A.No.XIV?”

7. My answer to it is in the '**Negative**' for the following reasons -

8. The instant execution petition has been filed seeking execution of the decree for possession

dated 10.07.2017, passed by this Court in O.S. No.103/1997. The case relates to the year 2018, and the present application seeks a stay of further proceedings in the present execution petition till the disposal of Civil Misc. No.16/2025.

9. The Applicants have filed the present application under Order XXI, Rule 26 of the CPC. At the outset, it is to be noted that this Court cannot grant the reliefs sought under the said provision, as the same is not attracted in the present circumstances, rendering the application itself not maintainable for the reasons stated hereinbelow.

10. A reading of Order XXI Rule 26 CPC indicates that this Rule contemplates four categories of Courts - (i) the Court to which the decree has been sent for execution, (ii) the Court which passed the decree, (iii) the Appellate Court having jurisdiction over the decree, and (iv) the Appellate Court having jurisdiction over the execution.

11. The "reasonable time" concept mentioned in the provision pertains exclusively to the first category i.e, the Court to which the decree has been sent for execution. The Rule states that such Court may grant a stay of execution for a reasonable time if sufficient cause is shown, and the purpose of granting such reasonable time is to enable the Judgment Debtor to obtain appropriate orders from any of the remaining three Courts, as the case may be.

12. The first category of Court under Order XXI Rule 26 CPC is thus clearly the Court to which the decree has been sent for execution. The present

Court is the decreetal Court, and therefore it cannot fall within the ambit of the first category envisaged by this provision. The concept of a decree being "sent" is envisaged under Section 38 CPC and given effect through Section 39 CPC read with Order XXI Rule 5 CPC. These provisions clearly differentiate between (i) the Court to which a decree has been sent for execution and (ii) the Court which passed the decree. Accordingly, the "reasonable time" under Order XXI Rule 26 CPC applies only to the former, and not to the decreetal Court. Thus, reliance by the Judgment Debtors on this provision is wholly misplaced.

13. Order XXI Rule 26 CPC does not deal with the powers of the remaining three categories of Courts to grant stay. The power of the Appellate Court to grant stay is provided under Order XLI Rule 5(1) CPC, while the power of the decreetal Court to grant stay is provided under Order XLI Rule 5(2) CPC. Since the present Court is the decreetal Court, an application under Order XXI Rule 26 CPC cannot be invoked to stay the present execution proceedings.

14. Hence, the Applicants cannot seek a stay of the present proceedings under the provision cited in the application. The execution petition has been pending since 2018, and the application is highly belated. Therefore, this Court is also not inclined to invoke its inherent powers to stay the proceedings. For the reasons detailed above, the present application is liable to be dismissed as not maintainable. With the aforesaid discussions, I answer the sole point which has arisen for my

consideration in the '**Negative**' and proceed to pass the following –

ORDER

*I.A.No.XIV filed by the Applicants/ Judgement Debtors No.1 to 5 U/o. XXI Rule 26 r/w. Section 151 of CPC is hereby rejected.
Now, no costs.*

sd/-

**Prl. Civil Judge & JMFC.,
Tarikere.**