

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

Ex.No. 19/2018

Decree Holders
Sri. Manjappa, Dead by Lrs Smt.
Sulochanamma and others

vs.

Judgment Debtors
Sri. Govindappa and others

Date: 12.08.2026

Proceedings or Orders of the Judicial Officer

ORDERS ON IA.NO.VIII AND IX

- 1.** I.A.No.VIII and IX have been filed by the Applicants/ Decree Holders under Section 151 of CPC respectively with a prayer to direct the Tahasildar/ ADLR to assist the Surveyor to measure the encroached suit schedule property and also accord police aid for execution of the delivery warrant.
- 2.** In the affidavits appended to the applications, it is commonly contended that this Court has issued a delivery warrant for execution of the decree passed in the suit. It is further contended that the Judgment Debtors have obstructed the execution of the said delivery warrant. In view of such obstruction, the Court Bailiff has sought police assistance as well as the assistance of the jurisdictional Surveyor for effective execution of the delivery warrant. Hence, the Applicant/Decree Holder has prayed for allowing the applications.
- 3.** Resisting the applications, the Judgment Debtors have filed their objections contending that the applications are not maintainable either in law or on facts and are therefore liable to be dismissed.

It is contended that the Decree Holder has suppressed the fact that a Civil Miscellaneous petition is pending before the Court of the Hon'ble Senior Civil Judge, arising out of the decree passed in O.S. No. 103/1997. According to the Judgment Debtors, despite being fully aware of the pendency of the said proceedings, the Decree Holder is attempting to execute the decree, which is impermissible in law. It is further contended that the Judgment Debtors have never obstructed the Court Bailiff, as alleged in the applications, and therefore the question of granting police assistance or the assistance of a Surveyor does not arise. It is also contended that, in the event the Civil Miscellaneous petition pending before the Hon'ble Senior Civil Judge is allowed and the Regular Appeal is restored and heard on merits, the very execution proceedings would become unsustainable. On these grounds, the Judgment Debtors have prayed for dismissal of the applications.

4. Heard Learned Counsel for Decree Holders and Learned Counsel for Judgment Debtors.

5. 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/ Decree Holders have made out sufficient grounds to allow the applications in I.A.No.VIII and IX?”

6. My answer to it is in the '**Affirmative**' for the following reasons -

7. The Court has already issued delivery warrant against the Judgment Debtors to deliver property mentioned in the Decree.

8. The Bailiff report shows that he has sought the assistance of the Taluk Surveyor for identification of the property and also to accord police aid for execution of the delivery warrant. When such being the case, it is just and necessary to direct the Taluk Surveyor to provide assistance to identify the property and in order to protect peace tranquility in the society, police assistance is very much necessary. No prejudice will be caused to the Judgment Debtors if this application is allowed. On the other hand, Decree Holders will be deceived with an opportunity if this application is rejected. If this application is rejected the whole purpose of getting the decree will be frustrated. The objections to the application on the contention that a civil miscellaneous petition is pending is no ground to deny the relief to the Decree Holders. With the aforesaid discussions, I answer the sole point which has arisen for my consideration in the '**Affirmative**' and proceed to pass the following –

ORDER

I.A.No.VIII and IX filed by the Applicants/ Decree Holders under Section 151 of C.P.C stands allowed.

The Taluk Surveyor attached to A.D.L.R Office, Tarikere and SHO of Lakkavalli PS is hereby directed to render proper assistance to the Court Ameen or Process Server during the execution of delivery warrant.

Re-issue Delivery Warrant against the Judgment Debtors to deliver property mentioned in the Decree, if P.F paid.

Issue intimation of this order to the office of A.D.L.R Tarikere and SHO of Lakkavalli PS.

Await D/W. Call on:

sd/-

(Rahul Shettigar)
Prl. Civil Judge & JMFC.,
Tarikere.