

IN THE COURT OF THE PRL. CIVIL JUDGE AND
JMFC., AT GUNDLUPET

Dated this the 27th day of FEBRUARY, 2026

PRESENT: **Sri. Deepu M.T, B.A.L., LL.B.,**
 Prl. Civil Judge & J.M.F.C.,
 Gundlupet.

Ex No:39/2020

Decree Holder : **Chikkarangaiah**
 S/o Late. Ankaiah
 Dead by his LRs

1. Smt. Chikkathayamma
 W/o Late. Chikkarangaiah
 Aged about 60 years

2. Kum. Parvathamma C
 D/o Late. Chikkarangaiah
 Aged about 35 years

3. Kum. Gangamma C
 D/o Late. Chikkarangaiah
 Aged about 33 years

4. Sri. Mahadevaprasad C
 S/o Late. Chikkarangaiah
 Aged about 31 years

5. Sri. Lokesh C
 S/o Late. Chikkarangaiah
 Aged about 29 years

6. Sri. Ankappa C
 S/o Late. Chikkarangaiah
 Aged about 27years

7. **Smt. Honnamma C**
D/o Late. Chikkarangaiah
Aged about 25 years
8. **Kum. Shilpasree C**
D/o Late. Chikkarangaiah
Aged about 23 years
9. **Kum. Sushma C**
D/o Late. Chikkarangaiah
Aged about 20 years

LRs 1 to 9 are R/at:
Maralapura Village
Beguru Hobli, Gundlupete Taluk
Chamarajanagara District.

[By Sri. JS, Advocate]

V/s

- Judgment holder : 1. Rathnamma**
W/o Puttamadaiah
Aged about 57 years
R/at: Bettadamadahalli Village
Beguru Hobli
Gundlupete Taluk.
- 2. Jayamma**
W/o Basavaiah
D/o Late. Rangaiah
Aged about 54 years
R/at: Madapattana
Beguru Hobli
Gundlupete Taluk.
- 3. Chinnamma**
W/o Chinnaswamy
D/o Late. Rangaiah
Aged about 50 years

R/at: Beguru Village
Beguru Hobli, Gundlupete Taluk.

4. Maniyamma

W/o Chandraiah
D/o Late. Rangaiah
Aged about 47 years
R/at: Kabbahalli Village
Beguru Hobli, Gundlupete Taluk.

5. Gopala

S/o Late. Rangaiah
Aged about 44 years
R/at: Maralapura Village
Beguru Hobli, Gundlupete Taluk.

6. Shivamurthy

S/o Late. Rangaiah
Aged about 41 years
R/at: Maralapura Village
Beguru Hobli, Gundlupete Taluk.

7. Srinivasa

S/o Late. Rangaiah
Aged about 59 years
R/at: Housing Board Colony
Nanjangudu Town.

8. Chinnaiah

S/o Late. Gopalaiah
Aged about 80 years
R/at: Maralapura Village
Beguru Hobli, Gundlupete Taluk.

9. Hanumaiah

S/o Late. Gopalaiah
Aged about 78 years
R/at: Maralapura Village
Beguru Hobli, Gundlupete Taluk.

10. Srirangaraju

S/o Late. Gopalaiah

Aged about 75 years

R/at: Maralapura Village

Beguru Hobli

Gundlupete Taluk.

**[By Sri. EMK, Advocate for
JDR No.1 to 10]****I.A. NO.I****Applicant** : Chikkarangaiah**V/s****Opponents** : Rathnamma and others**ORDERS ON I.A. NO.I**

The Decree Holder has filed this application praying to issue police protection to Decree Holder to execute the decree passed in OS No.123/2008 by this Court in the interest of justice and equity.

2. In the annexed affidavit to the application, the Decree Holder has shown that, the Decree Holder has filed suit for declaration and permanent injunction against the Judgment Debtors and same has been decreed on 23.01.2019. The Judgment Debtors preferred an appeal before the Senior Civil Judge and JMFC., Gundlupete in RA No.17/2019 and same has been dismissed on 22.01.2020. Thereafter, the Judgment Debtors have not preferred any

appeal. The decree holder is in possession of schedule property. But, the judgment debtors are interfering to the possession and enjoyment of Decree Holder over the schedule property for the one or the other reasons. All these Judgment Debtors came near the schedule property and make efforts to interfere to the possession of Decree Holder over schedule property. Even though the order of this Court very much known to the judgment debtors, they intentionally interfere with the peaceful possession and enjoyment of schedule property. If the application is allowed, no hardship will be caused to the other side. Otherwise, the Decree Holder will be put to great hardship and injury which cannot compensate in any manner. Hence, on all these grounds prayed to allow the application.

3. On the other hand, the Judgment Debtor No.7 has resisted this application by filing objections contending that, the application filed by the Decree Holder is not maintainable either in law or on facts. It is further submitted that, the allegation made by the Decree Holder is concocted one and in order to harass the Judgment Debtors as they are proceeding with another suit in OS No.52/2020 filed against Decree Holder in respect of land belongs to the Judgment Debtors, which is pending before the Addl. Civil Judge and JMFC., Gundlupete for the relief

of declaration. In fact, Judgment Debtors have not violated the decree passed in favour of decree holder. However, the land belongs to judgment debtors covers under the boundaries mentioned in the said suit, which facts was not made known to the judgment debtors in the course of the suit proceedings and as such a declaratory suit is filed by the judgment debtors in respect of the said land which is in possession of judgment debtors. There is no bonafideness in this petition filed by the Decree Holder and Decree Holder has not made out a case for violation till today since for the last 5 years. The Decree Holder has failed to establish a case for granting police help. The relief sought for by the Decree holder in this application and main petition are very vague. Hence on all these grounds prayed to dismiss the application.

4. Heard both counsel and perused the materials on record.

5. Now the points that would arise for the consideration of this Court that:

1. Whether the Decree Holder has made out grounds to allow the application?
2. What Order?

6. Findings of this Court on the above points are as under:

Point No.1 : **In the Negative**
Point No.2 : As per final order
for the following:

REASONS

7. Point No.1: On perusal of records, it depicts that, the Decree Holder has filed this petition based on the decree passed in OS No.123/2008 and RA No.17/2019. Through the instant application, the decree holder has sought for issue of police protection to decree holder to execute the decree passed in OS No.123/2008 by this Court. In the annexed affidavit to the application, the Decree Holder deposed that, the Decree Holder is in possession and enjoyment of schedule property and Judgment Debtors are came near the schedule property and make efforts to interfere to the possession of the decree holder over schedule property. Hence, prayed to allow the application. On the other hand, Judgment Debtor No.7 has filed objection by denying the affidavit averments of the decree holder and took contention that, the Judgment Debtors have not violated the decree passed by this Court and they have filed another suit in OS No.52/2020 against the Decree Holder in respect of land which is in possession of Judgment Debtors. Hence prayed to dismiss the application.

8. I have perused execution petition, IA No.I annexed affidavit and objections filed by the Decree

Holder. From the materials available on record, it is very clear that, the judgment and decree passed in OS No.123/2008 and RA No.17/2019 attained finally and there is no appeal against the judgment passed by this Court. No doubt in order to execute the judgment and decree passed in OS No.123/2008, the Decree Holder has filed this petition against the Judgment Debtors. Importantly in the interim application, the Decree Holder has sworn that, the Judgment Debtors are interfering to the possession of the Decree Holder by violating the decree and interfere to the possession and enjoyment of the decree holder over schedule property. In support of their contention, the decree holder has furnished decree passed in OS No.123/2008 and RA No.17/2019. On perusal of the decree passed in OS No.123/2008 and RA No.17/2019. From the documents it is clear that, there is permanent injunction order against the judgment debtors. The prayer sought in this application and main petition are one and the same. Though the decree holder alleged that, the Judgment Debtors have interfered to their possession over plaint schedule property has not produced any documents regarding the interference.

9. At this juncture, it is useful to refer the decision of Hon'ble High Court of Karnataka, Bengaluru in **WP No.5172/2019 (GM-CPC) Balakrishna.K.P and**

another -V/s- K.P.Puttaraju and others decided on 07.02.2025. Wherein the Hon'ble High Court held at para No.11 - After examining the case law on point, I am of the view that the consideration of application filed for police protection before the trial Court shall be based on various factors like:

- a)The nature of temporary injunction order passed by the trial Court.
- b)The nature of police protection sought.
- c)The trial Court shall consider the effect of granting and non-granting of police protection.
- d)The trial Court shall satisfy itself that prima-facie case is made out for grant of police protection based on the pleadings and material on record?
- e)The trial Court shall record the reasons while granting the police protection against the defendants as to whether the defendants are consistently violating the temporary injunction order with impunity and there is need for police protection or aid.
- f)The trial Court shall also take note of the fact that whether the temporary injunction order granted has attained finality and the application needs consideration even during

the pendency of the appeal against the order of temporary injunction granted by the trial court by recording the reasons for such urgency or otherwise.

g) The trial Court cannot order police protection mechanically. Each case has to be dealt based on the pleadings, material on record, and the nature of protections sought and Nature of temporary injunction granted. Unless the trial Court satisfies itself that there is an imminent need for police aid/police help, it cannot order for police protection on mere request.

h)The exercise power by the trial Court to consider the application for police protection is an inherent power of the court under Section 151 of CPC. The trial court may pass such order as may be necessary for the ends of justice or to prevent the abuse of process of the Court

i)There is no impediment for the trial Court to consider the application for police aid protection merely because there is a remedy under Order 39 Rule 2(A) of CPC. -The trial Court shall keep in mind the aforesaid factors and also consider other relevant

material and factors while passing an order on application for police protection or aid.

10. At this juncture, it is very useful to read the order XXI rule 32 of Code of Civil Procedure hereunder as follows :

32. Decree for specific performance for restitution of conjugal rights, or for an injunction —

(1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced ¹ [in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction] by his detention in the civil prison, or by the attachment of his property, or by both.

(2) Where the party against whom a decree for specific performance or for an injunction

has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force for 2 [six months,] if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold; and out of the proceeds the Court may award to the decreeholder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(4) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of 2 [six months] from the date of the attachment no application to have the property sold has been made,

or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

[Explanation. - For the removal of doubts, it is hereby declared that the expression "the act required to be done" covers prohibitory as well as mandatory injunctions.]

On perusal of the aforesaid provision of law, it is clear that, only two ways are available under law in order to enforce a decree for permanent injunction i.e., one by

detention of the judgment debtor in civil prison and another by the attachment of his property or by both. Unless and until the disobedience of the defendants/judgment debtors is shown and established.

11. In the case on hand, the decree holders have not placed substantial materials before this Court as observed by the Hon'ble High Court of Karnataka in the above referred writ petition to extend the police aid to the decree holders in violation of permanent injunction granted by judgment and decree in OS No.123/2008. It is very clear that when the execution petition filed under Order 21 Rule 32 of CPC for enforce a decree of permanent injunction by arrest and detention of judgment debtor to civil prison or by attachment of property or both, pending consideration of the said petition in exercise of powers under section 151 of CPC, the executive court cannot be direct the police to ensure obedience to the decree. Therefore, if there is a violation of injunction by the judgment debtors, the court while passed the decree can order detention and attachment of property. If the decree holder approach the police alleging that inspite of the decree of permanent injunction, the judgment debtors are interfering and causing legal injury to the decree holders, if movable property, the police can registered the case for an offence for trespass or attempted to trespass

and investigate the matter. Therefore, the application filed by the decree holder under section 151 of CPC sought for police help is not maintainable at this stage.

12. Importantly, in order to enforce the judgment and decree of the permanent injunction granted in a suit, when there is a specific procedure of law, the decree holders cannot invoke section 151 of CPC which is conferred inheritance powers to the civil court, therefore for enforcement of the decree of permanent injunction, the decree holders are not entitled to file an application straight away under section 151 of CPC seeking police protection without following the procedure contemplated under Order 21 Rule 32 of CPC, the petition under Order 21 Rule 32 of CPC is require summary enquiry, the decree holder shall placed the sufficient materials to show that the judgment debtors are willfully disobey the order of permanent injunction, the judgment and decree of the permanent injunction may be enforced by detention in civil prison or by attachment of judgment debtors property or by both.

13. The Learned Counsel for Judgment Debtor has relied on decision ILR 2003 KAR (High Court) Short Note No.9. From the perusal of aforesaid decission, it is clear that, this type of police protection sought by the Decree

Holder is not permissible under the law. But, the facts and circumstances of the present case and aforesaid decision are totally different. Therefore, with due respect to the said decision this Court is of the opinion that, the said decision is not applicable to the present case. Moreover, in order to get relief under the based on the injunction decree, the decree holder has to conduct enquiry in order to establish the interference made by the judgment debtors. Without enquiry, the interference made by the judgment debtors cannot be ascertained. Under such circumstances, this Court is of the opinion that, the enquiry is necessary in this petition. Without enquiry this Court cannot come to any conclusion. Under such circumstances, the application filed by the Decree Holder deserved to be dismissed. Therefore, in view of the aforesaid discussion, this Court is of the opinion that, the decree holders have not made out sufficient grounds to exercise inheritance power conferred under section 151 of Code of Civil Procedure to extend the police aid as sought in the application filed under Section 151 of Code of Civil Procedure. Hence, this Court has answered the **Point No.1 in the Negative.**

14. Point No.2: In view of the reasons and discussions made on point No.1, this Court proceed to pass the following :

ORDER

The IA No.I filed by the Decree Holder U/s 151 of Code of Civil Procedure is hereby dismissed.

In view of facts and circumstances of the case, no order as to costs.

[Dictated to the Stenographer, transcribed by her, corrected by me and then pronounced in the open Court on this the **27th day of FEBRUARY, 2026**]

[DEEPU M.T]
Prl. Civil Judge & JMFC.,
Gundlupete.