

ORDERS ON I.A.NO.VI

I.A.No.VI is filed by the Judgment Debtor U/S.151 CPC seeking an order to transfer the present decree to the jurisdictional Court.

2. This application is objected by the Decree Holder by filing detailed objection.

3. Heard both sides.

4. Perused the records.

5. The following point do arise for my consideration;

“Whether decree to be transferred as contended in the application?”

6. My finding on the above said point is in the Negative, for the following;

REASONS

7. Facts in brief is that the Decree Holder Sri Lingeshwar Traders, Merchant and Commission Agent, which is a Proprietor concern filed the present Execution Petition against Jdr., No.1 to 3 being the owners and Managers of Bharath Agro Foods Tanjavur for recovery of decreetal amount along with interest and costs amounting to ₹66,78,764/-.

8. After filing this Execution Petition, notice sent to Jdr.No.1 to 3. They appeared through their counsel and filed the present application seeking an order to transfer the decree to the jurisdictional court. In the memo of facts filed by the advocate for Jdr., it is stated that Jdrs., are residing in Tanjavoor at Tamil Nadu State, when they are residing in Tanjavoor, this Court has no jurisdiction to continue the proceedings and therefore it is prayed that the decree to be transferred to the jurisdictional court.

9. In the objection the decree holder contended that the decree holder had filed the suit in Com.O.S.No.4/2021 and in the said suit these Jdrs., who are the defendants though served with the summons did not appear and therefore, the said suit came to be decreed exparte vide judgment and decree dated 30.11.2021. Com.O.S.No.4/2021 against which the present execution petition filed decided before this court i.e., Principal District & Sessions Court, at Davanagere. Further, it is stated that between these two parties i.e., decree holder and Jdrs., there was arbitration agreement and as per the arbitration agreement it is agreed that if dispute arose, then it will be entertained within the jurisdiction of Davanagere only and these Jdrs., have agreed to the terms and conditions of the said agreement and now they cannot contended that this court has no jurisdiction to entertain the execution petition and therefore, decree to be transferred.

10. On going through the detailed objection filed by the Dhr., and as the suit decided before this court only, now the

Jdrs., cannot contend that this court has no jurisdiction to entertain the execution petition and decree to be transferred to Tamil Nadu State cannot be entertained.

11. It is the argument of the Jdrs., counsel that all the Jdrs., are residing in the address at Tamil Nadu and as per the provisions of Civil Procedure Code where the judgment debtors are residing within the jurisdiction of the said court the execution petition to be filed. However, it is pertinent to note that where the decree passed and further as per the agreement the court at Davanagere had the jurisdiction to decide, and under these circumstances, the arguments of the learned counsel for the judgment debtors stating that this court has no jurisdiction to execute the decree is unsustainable. Therefore, the application deserves to be rejected and accordingly, I answer the above said point is in the negative and I proceed to pass the following;

O R D E R

I.A.No.VI filed by the Jdr. U/S.151 CPC is dismissed.

(Dictated to the Judgment Writer, after his transcription, corrected, signed and then pronounced by me in the Open Court dated this the 21st day of June, 2023).

(RAJESHWARI N. HEDGE)
Principal District & Sessions Judge,
Davanagere.