

ORDERS ON I.A.NO.14

1. I.A.No.14 is filed by the Jdr., U/Sec.151 of CPC praying to recall the arrest warrant issued against him.

2. The learned counsel for the Jdr., has filed memo of facts in support of the said application stating that the Jdr., has made part payment in respect of the decree amount and sought time. Further, Dhr., has filed an application seeking seizure of the vehicles belongs to the Jdr., and now has filed application for issue of warrant against him. The Jdr., is aged and suffering from ill-

health and in the meanwhile he has made payment of ₹2 lakhs to the Dhr., and if he is arrested, he will be put to great loss and hardship and if the application is allowed no loss or hardship would be caused to the Dhr.

3. The Dhr., has filed objection contending that the application is not maintainable either in law or on facts and the same is filed with a view harass him and the application is highly belated. The Dhr., has further contended that the Jdrs., are well aware about the arrest warrant issued against him on 18.11.2023 and immediately thereafter, the Jdrs., have not filed any application to recall of warrant and only on 7.12.2023 they have come up with the present application to recall arrest warrant and the Jdrs, tendered ₹2 lakhs and same is received by the Dhr., under protest and when the case was posted for settlement none of the Jdrs., present and even on 21.11.2022 the Dhr., had been to Jdrs., place by appointing Spl.Ameen and on that day they promised to appear before the court on 13.1.2023, but they did not turn up and as such the Dhr., got filed the applications to attach the vehicles belonging to Jdrs, and arrest of the Jdr., under IA.No.6 & 7 which are kept in abeyance and in spite of steps taken by the Dhr., it is unable to recover the decretal amount, no grounds are made out to recall arrest warrant, and they have put into humiliation and threat from the farmers for non-payment towards their crops purchased and Jdrs., with a malafide intention have not made any payment, in spite of having sufficient funds and prayed to dismiss the application.

4. On going through the execution petition, the Dhr., filed this execution petition for recovery of amount of ₹66,78,764/-

against the Jdr.,No.1 to 3. As the amount involved is very huge amount, for realization of the said amount, the Dhr., has taken steps for issue of attachment of warrant of moveables. In spite of it, the attachment warrant of moveables returned unexecuted on 18.11.2023 and as such the Dhr., took arrest warrant along with police help. Thereafter, the Jdrs, have come up with the present application. The present case is filed on 5.5.2022 and till this day only a meager amount of ₹3 lakhs is paid by the Jdr., and there is balance of huge amount and in spite of steps taken by the Dhr., i.e., by issue of attachment of moveables, there is no fruits and as such, as a last option, the Dhr., took arrest warrant against the Jdrs. Therefore, considering the amount involved and facts and circumstances of the case, the Jdr., has failed to recall arrest warrant issued against him. Under these circumstances, this court is of the opinion that the application deserves to be dismissed. Accordingly, I proceed to pass the following;

O R D E R

I.A.No.14 filed U/Sec.151 CPC is dismissed.

Re-issue arrest warrant to Jdrs, through Special Bailiff along with police help (RMC Yard Police, Davanagere and Town police, Thanjavuru) if all the necessary charges deposited in the office.

Returnable by;

(RAJESHWARI N. HEGDE)
Principal District & Sessions Judge,

Com Ex.260/2022

Davanagere.