

ORDER ON IA No.4 AND MEMO

This IA No.4 filed by the decree holder U/O 21 Rule 48 of CPC and requested to order for attachment of salary of judgment debtor No.5 and 6 mentioned in this IA, in the interest of justice and equity.

2. In the annexed affidavit, the decree holder contended that, he has filed this petition for recovery of money against the judgment debtor. He has taken steps against the judgment debtor. The judgment debtor No.5 and 6 are working in Education Department and they are drawing handsome salary. In spite of it, they are not ready to make payment of award amount. Thereby the BEO of Education Department is the Drawing Officer of judgment debtor No.5 and 6, thereby the Drawing Officer may be directed to deduct the amount in the salary of judgment debtor No.5 and 6 and deposit the same before this court.

3. On this point, the judgment debtor counsel filed memo with one document and objection statement and contended that, the decree holder is not having any right to seize the movable or immovable property belongs to the judgment debtor. The decree holder obtained the decree by false information, thereby the judgment debtor has preferred the appeal before the competent authority, it is pending for adjudication. Thereby the present IA is not maintainable in the eye of law.

4. Heard the arguments of both side.
5. Now the points arise for my consideration are as under:-
 - 1) Whether the judgment debtor has made out sufficient grounds to allow this IA ?
 - 2) What order ?
6. My findings on the above points are as under:-
 - 1) In the Affirmative
 - 2) As per final order for the following;

REASONS

7. **Point No.1** :- I have gone through the contents of IA No.4 and objection statement. It is noticed that, the decree holder is seeking permission to attach the salary of judgment debtor No.5 and 6 in order to recover the award amount. It is opposed by the judgment debtor by filing the objection statement. On going through the records submitted by the decree holder, both respondent No.5 and 6 are working in education department and drawing the salary. The judgment debtor No.5 and 6 are party to the suit in Dispute No.29/2016-17 filed by the decree holder. The Assistant Director of Chit Fund passed the award in favour of decree holder. It is not challenged by the respondents. Moreover, the respondent counsel contended in the objection statement, the judgment debtor preferred the appeal against the order of the Assistant Commissioner of Co-operative Society, but there is no such appeal records produced by the

judgment debtor. Mere objection statement is not enough to stop the proceedings. It is a executing court. This court has to execute the award passed by the Assistant Director of Co-operative Society, Davanagere. If the judgment debtor is having any grievance about the order passed by the Assistant Director of Co-operative Society, Davanagere, he has every right to prefer the appeal before the competent authority. Hence, the reasons are satisfied. Accordingly, I answer the above Point No.1 in the Affirmative.

8. **Point No.2:-** In view of the above discussion, I proceed to pass the following;

ORDER

IA No.4 filed by the decree holder U/O
21 Rule 48 of CPC is hereby allowed.

Issue salary attachment warrant
against the judgment debtor No.5 and 6.

Office is directed to issue intimation to
the drawing officer to deduct 1/4th of the
salary of the judgment debtor No.5 and 6
and submit the same before this court.

Issue salary attachment warrant if PF
paid call on :

Prl.Senior Civil Judge,
Davanagere.