

KADG320009872024



**IN THE COURT OF
II ADDL. CIVIL JUDGE AND JMFC HARIHAR,
AT HARIHAR**

**Presided Over by SMT. JYOTI ASHOK PATTAR
(B.E., LL.B.)**

Ex.No.15/2024

Dated this the 26th day of November, 2025

Sri. B.Muttanna Amin

....DECREE HOLDER

Vs.

Sri. Nissar Ahammed and another.

....JUDGMENT DEBTORS

PARTIES TO I.A. NO.III

Firdos Banu & others.

**....APPLICANTS/
OBJECTORS**

Vs.

Muttanna Amin

**....OPPONENTS/
DECREE HOLDER**

i	Provision under which the application is filed	U/O XXI Rule 58 R/w Sec.151 of C.P.C
ii	Relief sought for	Temporary Injunction
iii	The date on which the application is filed	09.04.2025
iv	Number of the application	03
v	The date on which the objections are filed by the defendants opponents	29.04.2025
vi	The date on which the orders passed on the said application.	26.11.2025

ORDER ON I.A.No.III

The present application is filed by the applicants/ objectors U/O XXI Rule 58 R/w Sec.151 of CPC at the stage of sale notice seeking to implead them as objectors in the present petition.

2. It is stated in the accompanying affidavit that, the property bearing site No. 26, old Assessment NO. 51/38/51, New Assessment No. 56/54/56m, measuring 4.60x 13.55 meters, situated at G Division, Tegginakeri, Harihara, was originally purchased by father-in-law of applicant No.1 in the joint names of the present judgment debtors, they were minors at the time of purchase of the above said property have not contributed a single pie. As such said property is the property that has been purchased by the father-in-law of applicant No.1. That

father-in-law of applicant No.1 died leaving behind his two sons and two daughters as tenants in common. Till today all the four children of deceased father-in-law by name, Mehaboob Sab were enjoying the above said property as tenants in common. Father-in-law of applicant No.1 died on 26.07.2023, leaving behind the judgment debtors and applicant No.2 and 3 as his successors. Hence, the present application.

3. Per contra the defendant filed objection and contended that, the judgment debtors through his wife and children filed this false, vague, bald, not maintainable application with an mala-fide intention to drag the proceedings by curtail the senior citizen decree holder to reap the fruits of the decree. The applicant No.1 filed false affidavit with an intention to misguide the Court and to drag the proclamation of sale. Hence, prays to reject the application.

4. Even after sufficient opportunities the applicants have not chosen to submit their argument. Hence argument by applicants is taken as nil. Heard Ld. Counsel for decree holder.

5. The following points arise for this Court determination;

- 1 Whether the applicants / objectors made out grounds to implead

them as objectors in the present petition?

2 What Order?

6. This Court findings 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: That the applicants/objectors have filed present application to implead them in the present petition as they are having right, title and interest over the property attached in the present petition. It is pertinent to note that the decree holder has filed present Execution Petition in view of the judgment and decree of OS No. 115/2014. And the appeal preferred by the defendants against the said judgment is dismissed by confirming the order of Trial Court. Therefore the decree holder is entitled to recover the amount of Rs.4,50,000/- with the interest as decreed therein. Accordingly the decree holder filed IA No. I and II to recover the said amount by attaching the property of judgment debtors.

8. That it is contended in the accompanying affidavit of the present application that the applicant No.1 is the wife of Jdr No. 1 and applicant No.2 and 3 are their children. The applicants/objectors are residing at the petition schedule property and came to know that the Court has

issued notice for sale of the said property. It is specifically contended that they being the legal heirs of Jdr No. 1 are also having right, title and interest in the petition schedule property.

9. It is pertinent to note that the Jdrs being the Mohammedans are governed by Mohammed Law. Such being the case it is necessary to note that under the Muslim Law all the properties devolving by succession, so right of heirs comes in to existence only after the death their ancestral and the self acquired property, ancestral property is equally foreign to Mohammedan Law. Under Mohammedan Law one who inherits the property is the absolute owner of such property. So long as such person is alive nobody else having any right over such property. Only after the death of such person legal right accrues to his legal heirs. In the case on hand the Jdr No.1 who is the husband of applicant No. 1 and father of applicant No. 2 and 3 is still alive and appeared before the Court in the present petition. Therefore, the applicants have not made out any ground to implead them as objectors in the present petition. Therefore the applicants are not entitled to relief sought for. Hence the point No.1 is answered in the Negative.

10. Point No.2: In view of the above discussion, this Court proceed to pass the following:

ORDER

I.A.No.III filed by the plaintiff
U/O XXI Rule 58 R/w Sec. 151 of CPC, is
hereby rejected with cost of Rs.500/-.

(Dictated to the Stenographer directly on computer, typed by her,
revised and corrected by me and then pronounced in the open Court
on this the 26th day of November, 2025).

Sd/-
(Jyoti Ashok Pattar)
II Addl. Civil Judge & JMFC,
Harihar.