

**IN THE COURT OF PRL. SENIOR CIVIL JUDGE & CJM,
GADAG.**

**Present :- Smt.Preeti.S.Sadarjoshi,
B.A., LL.B.,
Prl. Senior Civil Judge & CJM., GADAG.**

Dated this 30th day of March, 2024.

Exc.No.106/2022

DECREE HOLDER:-

Ramappa S/o Hanamappa Kalkeri.

-V/s-

JUDGMENT DEBTORS:-

Laxmappa S/o Tirakappa Chevatannavar
Since deceased by his L.Rs and others.

-0o0-

PARTIES TO IA.No.5

APPLICANT:-

Mailarappa S/o Laxmappa Chevatannavar
(J.Dr.No.1(a)

(By Sri A.A.Hosur, Advocate)

V/S

OPPONENT:-

Ramappa S/o Hanamappa Kalkeri

(By Sri I.A.Bepari, Advocate)

**ORDERS ON I.A.No.5 FILED BY THE J.Drs. U/SEC.151
OF CPC**

1. The learned counsel for the J.Drs. has filed I.A.No.5 U/Sec.151 of CPC to direct the Manager, KVG Bank, Hammagi to submit the loan particulars being availed by mortgaging the suit properties in the interest of justice.

2. The said application is accompanied by the affidavit of the J.Dr.No.1(a) stating that there are loans of KVG Bank, Hammagi, Taluaka Mundargi over suit properties by mortgaging the suit properties. The Manager is reluctant to provide particulars of loan standing over the suit properties. The said documents are very much important to adjudicate the top noted petition effectively before execution of registered sale deed in favour of D.Hr. Hence, the J.Drs. prayed to allow I.A.No.5.

3. Per contra, the D.Hr. has filed objection to I.A.No.5 contending that the application is not maintainable either in law or on facts and is filed with ill-motive. This Court has no jurisdiction to conduct such proceedings. It is ordered that the D.Hr. be put in

possession of suit schedule property as per order in RSA No.6230/2012 by the Hon'ble High Court of Karnataka. In this regard, the J.Drs filed false complaint and case was registered bearing C.C.No.143/2000. The D.Hr. is acquitted. Thereafter, the J.Drs. through Tahasildar, Mundargi has filed proceedings U/Sec.145 of Cr.P.C. bearing MAG No.19/1999-2000 and the Tahasildar, Mundargi was appointed as receiver and conducted auction sale of standing crops. The D.Hr. preferred Criminal Revision Petition No.78/2013 U/Sec.397 of Cr.P.C. before Hon'ble Sessions Court, Gadag which came to be allowed. The D.Hr. is in possession of suit schedule property. At that time, the Tahasildar, Mundargi has not released the amount in favour of D.Hr. The amount is pertaining to D.Hr. The J.Drs. have handed over the possession of petition property in favour of D.Hr. in 1997. The D.Hr. has made huge expenses towards development of petition land. The D.Hr. is entitled to amount. The D.Hr. is aged about 70 years and the Decree is of the year 2001. The D.Hr. is fighting for justice since from 24 years. The J.Drs. on one

or other pretext are postponing the payment. Hence, the D.Hr. prayed to allow I.A.No.5.

4. There is a condition in Ex.P.16 as to repayment of loan amount lying in KVG Bank, Hammagi with respect to petition schedule property. As per Judgment of Hon'ble High Court of Karnataka in RSA No.6230/2012, the J.Drs have availed loan over petition schedule property. The J.Drs. will be having knowledge of loan particulars. Knowing fully well the J.Drs. have filed this application so as to drag on the matter. As per Judgment of Hon'ble High Court of Karnataka, the J.Drs. are directed to execute Registered Sale Deed in favour of the D.Hr. within three months. However, the J.Drs. have not complied the order of Hon'ble High Court of Karnataka in R.S.A. and are filing one another application so as to protract the proceedings. Hence, the D.Hr. prayed to dismiss I.A.No.5.

5. Heard arguments of learned respective counsels, reply arguments of the learned counsel for the J.Drs. on I.A.No.5. Perused the materials available on record.

6. The learned counsel for J.Drs. has argued that the before registration of sale deeds, everything is to be cleared. Ambiguity is to be decided. Amount is to be called for. Bank has not supplied loan documents. The J.Drs have cleared loan. Hence, the J.Drs. prayed to allow I.A.No.5.

7. The learned counsel for the D.Hr. has argued that the J.Drs. have no right to file this application. The D.Hr. has undertaken before Hon'ble High Court of Karnataka that he will clear of loan. Hence, learned counsel for the D.Hr. prayed to allow I.A.No.5.

8. It is not in dispute that the J.Drs. have availed loan in KVG Bank, Hammagi as per Judgment of Hon'ble High Court of Karnataka in R.S.A.No.6230/2012. The plaintiff/D.Hr has categorically admitted that he is willing to discharge the loan borrowed by the defendant No.1 to 3 from K.V.G.Bank. When the D.Hr. is ready to repay loan amount with respect to petition schedule property, calling of particulars from the Manager, K.V.G. Bank, Hammagi to submit loan particulars will not serve any fruitful purpose.

It seems that the application is filed with an intention to protract the proceedings. The plaintiff/D.Hr. has categorically admitted that he is ready to repay loan amount with respect to petition schedule property. This being so, when the D.Hr. is ready to repay the loan amount, calling of particulars of loan amount of J.Drs. will not serve any purpose. The application is devoid of merits. Hence, this Court is of considered opinion that the application filed by the J.Drs. is liable to be dismissed on payment of costs of Rs.500/- payable to the D.Hr. Accordingly, this Court proceed to pass the following:-

ORDER

I.A.No.5 filed U/Sec.151 of CPC by the J.Drs. dated 14/02/2024 is dismissed on costs of Rs.500/- payable to the D.Hr.

As the petition involves Senior Citizens, both learned respective counsels are directed to assist Court for speedy and expeditious disposal of petition.

(Dictated to the Stenographer, transcribed and typed by him, corrected and then signed and pronounced by me in open Court on this 30th day of March, 2024)

Sd/-30/03/2024

(Smt. P. S. SADARJOSHI)
Prl. Senior Civil Judge and CJM.,
Gadag.