



Order

IN THE COURT OF CIVIL JUDGE AND JMFC, LAXMESHWAR**Present: Satisha M.**

B.A.L., L.L.B.

Civil Judge and JMFC, Laxmeshwar

Dated this the 04th day of December-2024**Ex. No.70/2022****Decree Holders:**

1. Sri. Mallaraddi S/o. Hanamappa Yatnalli,
Age: 28 Yrs., Occ: Agriculture,
R/o. Balehosur, Tq: Shirahatti, Dt: Gadag
and 6 others.

(By Sri. V.L.P., Advocate)**Vs.****Judgement Debtors:**

1. Sri. Govindappa S/o. Halappa Yatnalli,
Age: 68 Yrs., Occ: Agriculture,
R/o. Balehosur, Tq: Shirahatti, Dt: Gadag and
15 others.

(Jdr. No.1, 3 to 10, 12 Absent**Jdr. No.2 Inperson****Jdr. No.11 By Sri. V.R.P. Advocate)****PARTIES TO THE I.A.NO.3**

Applicant: Sri. Basavararaddi S/o. Hanamappa Yatnalli
(Jrd No.2)

// Vs //

Opponent: Sri. Govindappa S/o. Halappa Yatnalli and others.

ORDER ON I.A.NO.III

The DHR's have filed I.A.No.3 U/s.151 of CPC seeking order from this Court, directing the jurisdictional police to render necessary police protection to the DHR to take possession of the property as per the final decree passed in FDP No.7/2017 dated 25/01/2022. The second DHR has sworn the accompanying affidavit filed in support of I.A.No.3. In affidavit he has stated that, the above petition is an outcome of FDP No.7/2017, as per the final decree the DHR's are entitle for 1/3rd share to an extent of 09 guntas shown in Block-I of the report. The JDR's hgave not handed over the possession as per the final decree, hnece they filed instant petition seeking delivery of possession. As per the order of this court under IA No.1, this court issued delivery of possession warrant and directed the ADLR to assist the bailiff for delivery of possession warrant. The JDR's have obstructed the bailiff in performing his duty and caused obstruction to delivery the possession warrant. As such, the present application is filed for seeking police protection.

2. Per contra, the JDR No.11 has filed objections to the I.A. No.1 and denied the entire averments made in the affidavit and stated that, the JDR No.11 is residing in a house situated at the suit property and he has put up construction about 15 years ago. The DHR's intentionally have not shown the house situated

in the suit property. Further there is no any decree in respect of house situated in the suit property and also there is no any order or decree to deliver the house situated at suit property. Hence, without there being any order or decree, the house which is in the possession of JDR No.11 cannot be taken. Hence, prayed to dismissal of application.

3. Heard arguments on both side.

4. Now the following points that arises for my consideration;

1) Whether DHR's have made out grounds to consider the I.A.No.3 filed for seeking police aid for delivery of possession?

2) What order?

5. This court answers to the above points are as under;

Point No.1 : In the Affirmative

Point No.2 : As per final order

for the following -

REASONS

6. **Point No.1:** In affidavit he has stated that, the above petition is an outcome of FDP No.7/2017, as per the final decree the DHR's are entitle for 1/3rd share to an extent of 09 guntas shown in Block-I of the report. The JDR's have not handed over the possession as per the final decree, hence they filed

instant petition seeking delivery of possession. As per the order of this court under IA No.1, this court issued delivery of possession warrant and directed the ADLR to assist the bailiff for delivery of possession warrant. The JDR's have obstructed the bailiff in performing his duty and caused obstruction to delivery the possession warrant. As such, the present application is filed for seeking police protection.

7. Per contra, the JDR No.11 has filed objections to the I.A. No.1 and denied the entire averments made in the affidavit and stated that, the JDR No.11 is residing in a house situated at the suit property and he has put up construction about 15 years ago. The DHR's intentionally have not shown the house situated in the suit property. Further there is no any decree in respect of house situated in the suit property and also there is no any order or decree to deliver the house situated at suit property. Hence, without there being any order or decree, the house which is in the possession of JDR No.11 cannot be taken. Hence, prayed to dismissal of application.

8. On perusal of materials available on record and the report submitted by the Bailiff report it reveals that, the present petition is an out come of FDP No.7/2017, as per the final decree the DHR's are entitle for 1/3rd share to an extent of 09 guntas shown in Block-I of the report. The objections raised by the JDR No.11 cannot be considered in this petition as there is no any

appeal against the final order passed in the final decree proceedings. The said FDP was considered on merits and accepted the court commissioner report. Whatever the contentions and objections raised by the JDR No.11 cannot be considered in this petition. Further the report submitted by the bailiff clearly discloses that, the JDR No.11 have obstructed to deliver the possession of the petitioner herein as per the final decree. The share allotted in the final decree proceedings, is entitle to enjoy by the petitioner herein. Hence, point No.1 is answered in the affirmative.

9. **Point No.2:** For the reasons stated supra this court proceed to pass the following -

ORDER

I.A.No.3 filed by the plaintiffs U/s.151
of CPC is hereby allowed.

The jurisdictional Police Station is
directed to render necessary police
protection to the bailiff and ADLR to comply
the order passed on IA No.I dated-
26/07/2023.

(Dictated to the Stenographer directly on computer, typed by her, then script corrected by
me and pronounced in the open Court dated this 04th day of December- 2024)

(Satisha M.)
Civil Judge and JMFC, Laxmeshwar.