

**IN THE COURT OF THE II ADDL. CIVIL JUDGE &
JMFC., AT ARASIKERE.**

:: PRESENT ::

**Smt.Pooja S.Kumar, M.B.A., L.L.B
II Addl. Civil Judge & J.M.F.C., Arasikere**

Dated this 02nd Day of June -2025.

Execution No.10/2024

Decree Holder : Sri.Mohamed Shamsheer
S/o. Late Mahamad Ali,
aged about 56 years,
R/o. Gandasi Village,
Ganadasi Hobli, Arasikere Taluk,
Hassan District.

(By Sri.PN. Adv.,)

~ ~ Versus ~ ~

Judgment Debtors : 1 : Jayamma W/o.Late Chikkegowda
aged about 58 years,
2 : Manjunatha @ Manju
S/o.Late Chikkegowda
aged about 30 years,

Both are R/o.Gollarahalli Village,
Gandasi Hobli, Arasikere Taluk,
Hassan District.

(By Sri. PN. Adv.,)

Date of institution of petition : 15.02.2024
Nature of the petition : Execution Petition
Date of recording of the evidence : 05.02.2025
Date on which the Order pronounced : 02.06.2025

(Smt.Pooja S.Kumar)
II Addl. Civil Judge & JMFC
ARASIKERE.

ORDERS ON PETITION U/O.21 RULE 32 OF CPC

This petition has been filed by the Decree Holder against the Judgment Debtors stating that the Judgment Debtors have violated the conditions of the decree passed in OS No.45/2015 dated 26.02.2018 and prays to send the Judgment Debtors to civil prison.

2. Brief facts of the case that the Decree Holder had got decree for permanent injunction against Judgment Debtors in OS No.45/2015. In that suit the Judgment Debtor has appeared and filed objection and after recording evidence it was decreed on 26.02.2018 in the decree it was

specifically directed that defendant is restrained from causing interference in the suit property. After the decree the Judgment Debtors have not preferred any appeal. But they are continued to causing interference in the suit property and gave trouble to the Decree Holder. The Decree Holder also filed complaint to the jurisdictional police but they have refuse to take the complaint and did not took any action. The illegal activities of the Judgment Debtors resisted otherwise the decree would be not satisfied. Hence, allow the petition.

3. In this case the summons was served to the Judgment Debtors not appear before this court.

4. On the basis of the pleadings of the Decree Holder, this court has framed the following:

POINTS

1. Whether the Decree Holder proves that Judgment Debtors have violated the condition of judgment and decree in OS No.45/2015?
- 2.What order?

5. Decree Holder Examined himself as PW.1 and produced 3 documents as Ex.P.1 to 3.

6. Heard the arguments and perused the evidence on record.

7. My answers to the above points are as follows:

Point No.1:- In the Affirmative

Point No.2:- As per final order for the following ;

REASONS

8. **Point No. 1 :-** The Decree Holder has filed OS No. 45/2015 for the relief of permanent injunction against the Judgment Debtors. In this respect the Decree Holder has furnished RTC in respect of land bearing Sy.No.51 measuring 2.00 acres Situated at Gollarahalli Village, Gandasi Hobli, Arasikere Taluk and Tax paid receipt which are marked as Ex.P.1 and 2. On perusal of the RTC which is standing in the name of Decree Holder and Ex.P2 which discloses that Decree Holder is paying kadayam in respect of suit schedule property. and

further furnished copy of judgment and issues passed in OS No.45/2015 which is marked as Ex.P.3. In the judgment and decree it was specifically ordered that the suit of the plaintiff is decreed with cost. The plaintiff is declared as owner and possession of suit schedule property. The defendant or anybody claiming through them are hereby directed to not to interfere with plaintiff's peaceful possession of plaintiff until the due process established by law. Therefore, judgment and decree is passed in favour of plaintiff and against the Judgment Debtors. The Judgment Debtors have not preferred any appeal therefore, it has attained finality. Even in spite of judgment and decree in favour of Decree Holder the Judgment Debtors have not preferred any appeal before the appellant court by challenging to set aside the judgment and decree when the appeal period was open. Hence, judgment and decree in OS No. 45/2015 is attained finality.

9. In the evidence PW.1 further stated that inspite of that the Judgment Debtors are causing interference in the peaceful possession of the suit property. In this respect the Decree Holder approached the jurisdictional police, but the police have not taken any action against the Judgment Debtors. If the illegal acts of the Judgment Debtors are resisted it could be into for multiplicity of the proceedings and frustrate the very decree passed in the OS No.45/2015.

As per Under Order 21 Rule 32(1) and (2) extracted here under:-

Decree for specific performance for restitution of conjugal rights, or for an injunction -

- 1) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has willfully failed to obey it, the decree may be enforced in the case of a decree for restitution of conjugal rights by the

attachment of his property or, in the case of a decree for the specific performance of a contract, or for an injunction by his detention in the civil prison, or by the attachment of his property, or by both.

- 2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

Even in spite of this Judgment Debtors have not appear before this court there are no reason to disbelieve the evidence of PW 1. Hence, Judgment Debtors has disobey the order in judgment and decree in OS No.45/2015. And as there is no document to support the amount of interference. Hence, it is appropriate to detained the judgment debtor in the civil prison for a period of 15

days. Accordingly, I answer **point No. 1 in the affirmative.**

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

ORDER

The execution petition filed by the Decree Holder U/o.21 Rule 32 of CPC is hereby allowed.

The Judgment Debtors are held guilty of disobedience judgment and decree in OS No.45/2015. Judgment Debtors shall be detained in civil prison for a period of 15 days if the Decree Holder deposits subsistence allowance.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed and computerized by her and corrected, initialed and then pronounced by me, in the Open Court, on this 02nd day of June 2025)

(Smt.Pooja S.Kumar)
II Addl. Civil Judge & JMFC
Arasikere.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR THE DECREE HOLDER:

PW-1 Mahamad Shamshir

LIST OF DOCUMENTS EXHIBITED FOR THE DECREE HOLDER:

Ex.P.1	RTC
Ex.P.2	Tax Paid Receipt
Ex.P.3	Certified copy of Judgment and issues in OS No. 45/2015

LIST OF WITNESSES EXAMINED FOR THE JUDGMENT DEBTORS:

---Nil---

LIST OF DOCUMENTS EXHIBITED FOR THE JUDGMENT DEBTORS:

---- Nil----

(Smt.Pooja S.Kumar)
II Addl. Civil Judge & JMFC
Arasikere.