



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE
& JMFC, AT:HAVERI.**

:: Present ::

SMT. SHOBHA, B.G., M.A., LL.B.,
Addl. Senior Civil Judge & JMFC, Haveri.

Dated this 22th day of June- 2026

Ex.No.47/2016

Decree holder:

Smt.Saroja W/o Puttappa Savanur,
R/o:Haveri.

1. OS No.43/2005 Additional Senior Civil Judge Haveri Court.
2. Smt.Saroja W/o Puttappa Savanur,
Age:53 years, Occ:Nudal officer,
R/o High School road, Near Jila
Gurubavan, Haveri.

(By Sri.P.M.B., Adv.,)

VS.

Judgment Debtors::

1. Neela W/o Mrthunjay Patanashetti
R/o:Haveri, deceased legal heirs.
- 1(a). Smt.Pushpa W/o Kumarswami
Salimath, R/o:Haveri, deceased legal
heirs.
- 1a(1).Kumarswami G Salimath,
Age:45 years, Occ:Manager,
Sri.Mahalakshmi Urban Co-Operative
Society Ltd., Haveri, R/o:M.G.Road
Haveri.
- 1a(2).Shiddalingesh S/o Kumarswami
Salimath, Age:17 years, Occ:Student,



- R/o:Haveri, the JDR No.1a(2) is minor guardian represented nature father 1a(1)JDR i.e., Kumarswami Salimath, R/o:Haveri.
- 1a(3).Kum.Puja S/o Kumarswami Salimath, Age:14 years, Occ:Student, R/o:Haveri, the JDR No.1a(2) is minor guardian represented nature father 1a(1)JDR i.e., Kumarswami Salimath, R/o:Haveri.
2. Shivabasappa S/o Mruthunajaya Pattanashetty, deceased legal heirs.
- 2(a). Smt. Deepmala W/o Shivabasappa Pattanashetty, Age:35 years, Occ:House work and Private Job, R/o:Haveri.
- 2(b). Aditty S/o Shivabasappa Pattanashetty, Age:08 years, Occ:House work and Private Job, R/o:Haveri, the JDR No.2(b) is minor guardian represented nature mother 2(a)JDR i.e., Smt. Deepmala W/o Shivabasappa Pattanashetty, R/o:Haveri.
3. Mahantesh S/o Mruthunajaya Pattanashetty, Age:38 years, Occ:Private job, R/o:Haveri.

(J1(a)1. by Sri.S.R.H., Adv.,)

(J1(a)3, 2(a)3, J2(a), 2(b)3 by Sri.K.P.H., Adv.,)



**ORDER ON LIABILITY OF JDR'S AS PER SEC.50 OF
CPC**

The JDR No.1(a)1 preferred appeal against order passed by this Court on IA No.I dated:05.02.2020 before the Hon'ble High Court of Karnataka Dharwad bench in WP No.138920/2020(GM-CPC). Said writ petition came to be allowed and the Hon'ble Court directed this court to examine the extent of liability of all the judgment debtors in terms of Sec.50 of CPC and thereafter pass appropriate orders.

2. The decree holder filed this petition for recovery of decretal amount of Rs.46,998/- passed in OS No.43/2005 dated:28.09.2015 along with interest and other costs in total Rs.1,04,590/-.

3. The JDR No.1(a)1 filed objection to petition contending that the petition is not maintainable under law. Further it is contended that DHR filed suit for recovery of money against the defendant No.1 to 3 before this Court which was numbered as OS NO.43/2005 and said suit was decreed. The original defendant No.1 in OS NO.43/2005 is one Neela Pattanashetty who is the mother of wife of JDR No.1(a)1. After her demise his wife was brought on record in said suit as her legal heir. Subsequently his wife also died during pendency of OS No.43/2005. Hence JDR No.1(a)1 and his children were brought on records as legal heirs of his wife. Himself and



his children are not inherited any property in any manner from original defendant No.1 and also his wife. The decree holder has no right to execute the said decree against him and his children. Hence prays for dismissal of petition.

4. Heard arguments on both side.

5. On the basis of the above facts, the following points that arise for my consideration are:

**1. Whether the judgment debtors
No.1(a) 1 to 1(a) 3 are liable to pay
claim amount to the DHR?**

2. What order?

6. My answer to the above points is as under:

Point No.1 : In the Negative

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

REASONS

7. **Point No.1** : In pursuance of order of Hon'ble High Court passed in W.P. No138920/2020(GM-CPC), the Decree holder, examined herself as PW-1 and filed affidavit in lieu of her enquiry U/Sec.50 of CPC and got marked 1 document as Ex.P.1. On the other hand, the JDR No.1(a)1 has not adduced any evidence. JDR No.1(a)2 and 3 are minors represented by minor guardian JDR No.1(a)1. The JDR No.2(a) and (b) and JDR No.3 have not filed any objection and they have also not adduced any evidence.



8. On perusal of evidence adduced by the decree holder it discloses that in evidence affidavit filed by the DHR/PW-1 at para No.8 she stated that the original defendant Smt.Neela and her relatives i.e., JDR No.1(a), 1(a)2, 1(a)3, 2(a), 2(b) and JDR No.3 have no movable and immovable properties left. The JDR No.1(a)1 is working as a chief executive Manager in Mahalakshmi Urban Co-operative Society Ltd., and is receiving salary of Rs.50,000/- per month. He is also running private money lending business and earning an income of lakh together per month. During cross examination of PW-1 at page No.6 in para No.1 she deposed that the property has not come from Smt. Neelamma to the JDR No.1(a)1 to JDR No.1(a)3. The admission of PW-1 in her evidence affidavit and her cross examination clearly discloses that the original defendant No.1 by name Neela W/o Mrutunjayya Pattanashetty died without leaving any estate in her name.

9. Moreover admittedly the JDR No.1(a)1 is son-in-law of JDR No.1 i.e., his wife's mother. He is legal heirs only through his wife. The daughter inherited nothing from her mother who is JDR No.1. the JDR No.1(a)1 has not acquired any property from his wife or her mother JDR No.1. As per Sec.50(2) of CPC the legal heirs are not personally liable for the debt of deceased beyond inherited estate. The limits of liability to the



extent of property of the deceased which has come to their hands. The decree holder has not produced any document to show that the JDR No.1(a)1 to 1(a)3 inherited the property from deceased JDR No.1. As such this Court cannot attached the personal property of JDR No.1(a)1. The material placed before the Court disclose that no property inherited from deceased JDR No.1. Therefore the JDR No.1(a)1 is not liable to pay claim amount from his personal assets.

10. The counsel for DHR relied upon following citations:

1. Civil Appeal No.3209/2002 (Government of Orissa Vs. M/s Ashok Transport Agency & others)

Wherein it is contended that:"If the decree is for payment of money out of the property of the deceased, the section permits the decree to be executed against the property of the deceased in the hands of the legal representatives and the legal representatives are liable to satisfy the decree only out of the assets of the deceased in their hands. However, there is no provision which contemplates a situation where a decree can be executed against the legal representative who is not brought on record in case of death of the original defendant or in case where there is assignment, creation or devolution of an interest during the pendency of the suit by the defendant."



2. ILR 1997 KAR 645 (D. Padma & Ors. Vs Faruddin Khan & Anr.) *Wherein it is held that:"A) CIVIL PROCEDURE CODE, 1908 (Central Act V of 1908) Sections 52 & 60 executability of decree against legal heirs of deceased permissible against property left by deceased under Section 52, held, does not conflict with exceptions enumerated under Section 60 of C.P.C."*

HELD:.....there is absolutely no conflict between these Sections. Section 52 does take into account a situation where a decree is passed against the legal representative because the defendant has died during the proceedings and it only stands to reason that such a decree is executable against the property of the deceased. Section 60 categorises different heads of property which are liable for attachment and sale but it also carves out certain exceptions one of which is the amount of gratuity payable to a pensioner."

"(B)- Section 60(g) respondent/decreed holder got attachment of gratuity payable to deceased husband of petitioner petitioner claimed that gratuity could not be attached by Trial Court - gratuity being terminal benefits available to an employee & being immune from being attached, held, not liable to be attached as immunity from attachment continued in the hands of legal heirs also."

I have gone through the aforesaid citations, the principle laid down in said citations is not applicable to



the case on hand. In the instant case the decree holder has failed to prove that JDR No.1 died by leaving estate. On the other hand JDR No.1(a)1 established that he did not inherit any property from JDR No.1. On considering evidence placed before this Court and reasons discussed above I am of the opinion that the JDR No.1(a)1 to JDR No.1(a)3 are not liable to pay decree/claim amount to the decree holder from his personal assets. Accordingly Point No.1 is answered in the **Negative**.

11. Point No.2: In view of reasons discussed point No.1 I proceed to pass the following:

ORDER

The JDR No.1(a)1 to JDR No.1(a)3 are not liable to pay decretal amount.

The decree holder is at liberty to take steps against remaining JDRs for recovery of decretal amount in accordance with law.

(Dictated to the Stenographer directly on to the computer, computerized by her, corrected, signed and then pronounced by me in the open Court on this the **22th day of June-2026**)

(Smt.Shobha B.G.)

Addl. Senior Civil Judge and
JMFC, Haveri.

