

ORDERS

Case advanced,

In view of the order dtd: 17-03-2025 Court Bailiff Sri M. N. Pagadavar has produced the JDR before the Court.

Counsel for the DHR is present and submits that, inspite of giving sufficient opportunity, the JDR did not pay the decreetal amount and he is having sufficient means. Hence, prayed to recover the decree amount by sending the JDR to civil prison and DHR has filed affidavit by stating the same grounds.

On the other hand, JDR submits that, he did not have any movable and immovable properties in his name and he is unable to pay the decree amount. Further he submits that the DHR has clearly admitted in IA No.13 and also supporting affidavit, that I did not have any movable and immovable properties and hence, it is also within the knowledge the DHR that he did not have any means to pay the decreetal amount to the DHR. Further JDR has also produced letter addressed to the Tahashildar, Ranebennur dtd:13-02-

2025 to issue insolvency certificate to him and the Tahashildar, Ranebennur has issued endorsement to the JDR by directing the JDR to furnish necessary documents to issue insolvency certificate in his favour.

Perused the materials available on record.

DHR by name Ganesh Angadi has filed MVC No.1351/2018 against the JDR – Prakash Mulimani for seeking compensation for the injuries sustained by him in a road traffic accident caused due to the rash and negligent driving of JDR and when the JDR has failed to pay the decree amount, then DHR has filed the present execution petition to recover the decree amount from the JDR.

On perusal of the order sheet goes to show that, JDR has filed the present execution petition during 2020 and Court had given sufficient opportunity to the JDR to pay the decree amount. Thereafter DHR has filed IA No.4 to arrest the JDR and same was allowed on 15-11-2022, but the JDR was not arrested as per the said order. As per the order of the Court, the Car bearing

Reg. No. KA 05/AC-8434 of the JDR was attached on 13-06-2023. Since then the JDR has not come forward to pay the entire decree amount or part of the decree amount.

Thereafter, the DHR has filed application to conduct public auction of the seized car. On the basis of the said application, Court had directed to the ARTO, Ranebennur to submit valuation of the vehicle by inspecting the vehicle on 24-09-2024 and ARTO, Ranebennur had inspected the vehicle and has assessed the the value of the vehicle for an amount of Rs.75,000/-.

DHR has filed IA No.8 to conduct public auction of the seized vehicle and Court had conducted public auction, but none of the bidder have not interested to purchase the vehicle to the above the amount of Rs.75,000/- valued by the ARTO, Ranebennur. Again Court had given ample opportunity to JDR to pay the decree amount, but he failed to do so.

Thereafter, on the basis orders on IA No.10, again Court had conducted public auction, but none of the bidder have not interest to purchase the seized

car.

On perusal of the documents it is clear that, due to the injuries the right above knee of DHR has amputated and as such, he did not have capacity to earn the money to meet his livelihood.

It is undisputed fact that the JDR is the owner of seized car and he has not made any efforts to get release the said seized vehicle to earn the money from the said vehicle. Further the DHR has filed affidavit stating that, his right above knee amputated, as such he is not having any source of income. Though the JDR is hale and healthy person having capability to earn the money independently or from the seized car. But inspite of having capability, the JDR failed to pay the decree amount.

Considering the nature of the case and conduct of the JDR, it shows that, the JDR is not interest to pay the decree amount to the DHR and if he is interested, then he will get release the vehicle and will earn the money from the said vehicle by using the car on rent basis. But the JDR without paying the decree amount, he intentionally drag on the proceedings by filing untenable

applications that, this court has no jurisdiction to entertain the petition and also to review the order on IA No.10 passed on 12-11-2024.

Naturally, in a claim petitions liberal view has to be considered upon the parties. Though the JDR has opted sufficient opportunity to pay the decree amount, but he failed to do so.

Though, in IA No.13, it is stated that the JDR did not have any movable and immovable properties, but it is not ground to escape from paying decree amount, as the JDR have opportunity to earn the money from the seized vehicle and also the JDR has not made any efforts to get insolvency certificate from the Tahashildar, Ranebennur by producing necessary documents. Hence, considering the facts and circumstances of the case and the nature of injuries sustained by the DHR in the accident, it is just and necessary to recover the decree amount by sending the JDR to Civil Prison.

Sec.58 of CPC reads as follows, (1) every person detained in the civil prison in executions of the decree shall be son detained;

(a) where the decree is for the payment of a sum of money exceeding (five thousand rupees) for a period not exceeding three months and

(b) where the decree is for the payment of a sum of money exceeding two thousand rupees, but not exceeding five thousand rupees, for a period not exceeding six weeks

Provided that he shall be released from such detention before the expiration of the (said period of detention)

*i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison or
ii) on the decree against him being otherwise fully satisfied or*

iii) on the request of the person on whose application he has been detained or

iv) on the omission by the person, on whose application he has been so detained, to pay subsistence allowance.

In view of the above provision of law,
Accordingly, I proceed to pass following;

ORDER

**The JDR is send to Civil Prison
for the period of 30 days or to
payment of decreetal amount,**

**whichever is earlier, as contemplated
U/Sec.58 of CPC.**

**The DHR is directed to pay SI
amount.**

**Office is directed to issue
detention order against the JDR,**

Call on 26-04-2025.

Sd/-
Prl. Senior Civil Judge
& JMFC., Ranebennur.