

ORDER ON MAINTAINABILITY

The present execution petition is filed by the decree holders seeking delivery of possession of the suit schedule properties in terms of the final decree passed in FDP No.07/2003 arising out of O.S. No.136/1998.

2. Earlier, the decree holders had filed IA No.1 under Section 151 of the Code of Civil Procedure seeking condonation of delay in presenting the execution petition. By order dated;07-07-2026, this Court has rejected the said application as not maintainable, holding that there is no provision either under the Limitation Act, 1963 or under the Code of Civil Procedure empowering the Court to condone the delay in filing an execution petition and that the inherent powers under Section 151 CPC cannot be invoked to enlarge the period of limitation prescribed by law.

3. Consequently, the present execution petition is taken up for consideration on the question of its maintainability.

4. Heard the learned counsel for the JDR. The Counsel for DHR failed to address the arguments. Perused the execution petition, decree, records and the earlier order passed on IA No.1.

5. The point that arises for consideration is:

“Whether the present execution petition is maintainable in view of

Article 136 of the Limitation Act, 1963?”

6. The execution of civil decrees is governed by Article 136 of the Limitation Act, 1963, which prescribes a period of **twelve years** for execution of any decree or order of a Civil Court. The period begins to run from the date on which the decree becomes enforceable. The law relating to limitation is mandatory and creates a statutory bar against entertaining proceedings instituted after expiry of the prescribed period.

7. It is equally well settled that Section 5 of the Limitation Act does not apply to execution proceedings. The Legislature has consciously omitted any provision enabling the Court to condone the delay in filing an execution petition. Consequently, once the prescribed period expires, the executing Court has no jurisdiction either to extend the period of limitation on equitable considerations or to invoke the inherent powers preserved under Section 151 CPC to revive a remedy which has become barred by law.

8. In the present case, the decree holders themselves have furnished the relevant dates in the execution petition. From the averments made therein and the accompanying records, it is evident that the execution petition has been instituted after the expiry of the period prescribed under Article 136 of the Limitation Act. The decree holders have not produced any material to show that the execution petition has been presented within the statutory period or that

limitation is liable to be computed from any subsequent legally recognised date.

9. The only explanation offered by the decree holders was that the husband of decree holder No.1 was suffering from ill-health and, therefore, she could not initiate execution proceedings in time. This explanation was the subject matter of IA No.1 seeking condonation of delay. Since the said application has already been rejected as not maintainable, the said explanation cannot confer jurisdiction upon this Court to entertain an execution petition which is otherwise barred by limitation.

10. The Hon'ble Supreme Court has consistently held that limitation statutes, though they may occasionally operate harshly, have to be applied with full force. Courts cannot extend the period prescribed by statute on equitable or sympathetic considerations. When the Legislature has prescribed a definite period for execution of decrees and has not conferred any power to condone delay, the executing Court is bound to give effect to the statutory mandate.

11. An executing Court is a Court of limited jurisdiction. It is empowered to execute only those decrees which are presented for execution in accordance with law. Where the execution petition itself is barred by limitation, the Court lacks jurisdiction to proceed further with its execution. Entertaining such a petition would amount to defeating the legislative intent embodied in Article 136 of the Limitation Act.

12. Thus, this Court is satisfied that the present execution petition has been filed beyond the period of limitation prescribed under Article 136 of the Limitation Act, 1963. In the absence of any statutory provision permitting extension or condonation of such delay, the execution petition is clearly barred by limitation and consequently not maintainable. Accordingly, Point No.1 is answered in the **Negative** and this Court proceeds to pass the following:

ORDER

“The execution petition filed by the decree holders under Order XXI of the Code of Civil Procedure is dismissed as barred by limitation under Article 136 of the Limitation Act, 1963.

No order as to costs.”

**PRL. CIVIL JUDGE & JMFC,
Ranebennur**