

**IN THE COURT OF SENIOR CIVIL JUDGE, JEWARGI**

**PRESENTS : Sri. Sandeep. A. Naik, B.A., LL.B.,(Spl)  
Senior Civil Judge, Jewargi.**

**Dated 06<sup>th</sup> Day of January-2025**

**Execution Petition No.62/2023**

**DECREE HOLDER/S** Chief Executive Officer,  
K & Y D C C Bank Ltd. Central Office,  
Jagat Circle,  
Main Road, Kalaburagi.  
Represented by its Authorized Officer  
Madhavaraj S/o Shantgouda,  
Age: 44 years, Occ: Supervisor,  
K & Y D C C Bank, Jewargi Branch.

**V/s**

**JUDGMENT  
DEBTOR/S**

1. Sakreppa S/o Sanganna,  
Age: 48 years, Occ: Agriculture,  
R/o Harnoor village, Tq: Jewargi,  
Dist: Kalaburagi.
2. Somashekhar S/o Ningangouda,  
Age: 60 years, Occ: Agriculture,  
R/o Harnoor village, Tq: Jewargi,  
Dist: Kalaburagi.
3. Sakreppa S/o Jatteppa,  
Age: 55 years, Occ: Agriculture,  
R/o Harnoor village, Tq: Jewargi,  
Dist: Kalaburagi.
4. C E O,  
P.K.P.S.S.N, Kellur,  
Tq: Jewargi, Dist: Kalaburagi.

**ORDERS ON I.A.No.1**

**APPLICANT/S**      **CEO, K & Y DCC Bank Ltd.,  
Kalaburagi.- decree holder**

**V/s**

**OPPONENT/S**      **Sakreppa and Others – Judgment debtors**

i.	Provision under which the application is filed	I.A.No.1 filed by decree holder U/o 21 Rule 41 R/w Sec.151 of CPC
ii.	Relief sought for	Attachment of Immovable property
iii.	The date on which the application is filed	30-11-2024
iv.	Number of the application	IA No.1
v.	The date of which the objections are filed by different opponents	Nil
vi.	The date on which the orders were passed on the said application	06-01-2025

**ORDER ON I.A.No.1 FILED UNDER ORDER 21 RULE 41 R/w  
Sec.151 OF C.P.C.,**

1. The decree holder has filed application Under Order 21 Rule 41 R/w Sec.151 of C.P.C., praying to issue an order of attachment and sale of schedule properties i.e., land bearing Sy.No.152/E measuring 08 acres 06 guntas of Harnoor village for the recovery of award amount.

2. The present Execution petition is filed for executing the award and decree passed in case No.103/2021-22 dated 08-07-2022 by the Assistant Registrar Co-operative Societies, Kalaburagi. It is ordered and decreed that defendants have to pay a sum of Rs.6,33,341/- with interest at the rate of 15.75% per annum from 31-12-2020 till its realization. The judgment debtor failed to satisfy the decree as such decree holder has filed this Execution petition.

3. After filing of execution petition, court notice served on the judgment debtors, but they remained absent, as such attachment warrant of movables was issued against the judgment debtors. Meanwhile, decree holder has come up with the present application.

4. The official of D.Hr bank sworn to the affidavit stating that the mediator on behalf District Co-operative Society Office, Kalaburagi has passed the award in dispute No.103/2021-22 dated 08-07-2022. In spite of having knowledge about the same J.Hr failed to deposit the amount. The J.Drs are intentionally avoiding to pay the award amount. Therefore it is just and proper to order for attachment and sale of land bearing Sy.No.152/E measuring 08 acres 06 guntas of Harnoor village for recovery of award amount. On all these grounds the Decree Holders prayed to allow the application.

5. Heard arguments of D.Hr counsel.

6. The point that would arise for my consideration is as under:

1. Whether the application Under Order 21 Rule 41

R/w Sec.151 of C.P.C., filed by the decree holders is deserves to be allowed and whether attachment warrant of immovable property mentioned in the application?

2. What Orders?

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

Point No.1: In the Affirmative.

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

### **REASONS**

8. **POINT No.1**:- Admittedly, in the present case the attachment of movable property was issued against the judgment debtors but in spite of it judgment debtors did not paid any amount to the decree holder. The decree holder has exhausted the remedies contemplated under the code in order to recover money from the judgment debtors. Moreover, decree holder has filed an affidavit and also produced documents, in order to issue attachment warrant in respect of the immovable property of judgment debtor No.1.

9. On perusal of the documents produced by decree holder record of rights of schedule property, when the judgment debtor No.1 has failed to satisfy the decree then decree holder has every right to seek attachment of immovable property of judgment debtor to put it for auction sale and to satisfy the decree. Further in a decision reported in **AIR 1969 Supreme Court 897 in between P.R. Sugar Works Vs. Land Reforms Commissioner**, Wherein the

Hon'ble Supreme Court pleased to observe that the Code of Civil Procedure imposes no obligation to recover the dues by sale of movables or by arrest and detention of the defaulter before immovable property may be attached. Further in another decision reported in **1993 Supp(1) KCC 693 in between Shyam Singh Vs. Collector, Distt. Hamirpura**, wherein the Hon'ble Supreme Court has held that reiterating the observation made by the Supreme Court in the P.R. Sugar Works case, wherein it was observed that "it has been said the difficulties of a litigant begin when he has obtained a decree. It is a matter of common knowledge that far too many obstacles are placed in the way of a decree-holder who seeks to execute his decree against the property of the judgment-debtor. Perhaps because of that there is no statutory provision against a number of execution proceedings continuing concurrently. Section 51 of the Code gives an option to the creditor, of enforcing the decree either against the person or the property of the debtor; and nowhere it has been laid down that execution against the person of the debtor shall not be allowed unless and until the decree holder has exhausted his remedy against the property".

10. In the first decision though it is held that there is no obligation in the C.P.C., in order to recover dues by sale of immovable or by arrest and detention of the defaulter before immovable property may be attached. In the present case decree holder has exhausted all the remedies by taking attachment of movables. Hence, in order to satisfy the decree it is necessary to pass necessary orders in the present application. Hence, I am of the view that the decree holders have made sufficient grounds to allow

the application. The due decretal amount is said to be Rs.6,92,013/- with interest. Therefore it is appropriate to issue attachment warrant in respect of said property i.e., land bearing Sy.No.152/E measuring 08 acres 06 gutnas situated at Harnoor village. Hence, I answered point No.1 in the affirmative.

11. **Point No.2** :- For the findings given in point No.1, I proceed to pass the following:

**:: ORDER ::**

The IA No.1 filed by the decree holder is hereby allowed.

Issue attachment warrant against the immovable property of judgment debtor No.1 land bearing Sy.No.152/E measuring 08 acres 06 gutnas situated at Harnoor village, Jewargi taluk, described in the application thereby prohibiting the judgment debtor No.1 from transferring or charging the property in anyway.

Call on for await report by 05-04-2025.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the Open Court on this 6<sup>th</sup> Day of January-2025).

**(Sandeep. A. Naik)**  
**Senior Civil Judge,**  
**Jewargi.**