

Order on IA U/O 21 Rule 64 of CPC

The Dhr has filed this application U/O 21 Rule 64 of CPC and sought to sell the attached property i.e., land measuring 3 acres in Sy.No.442/1 of Benaknalli village through court auction.

The Dhr has sworn to an affidavit in support of IA and stated that he had filed suit for specific performance of contract against he Jdr in OS No.98/2022 and this court partly decreed in the suit on 29.09.2023 and directed the defendant to refund earnest money of Rs.8,00,000/- with interest @ 6% per annum to the Dhr. But the Jdr did not pay the decretal amount. Therefore, the Dhr has filed this execution petition. This court already attached the land measuring 3 acres in Sy.No.442/1 and in order to satisfy the decree it is just and necessary to sell the the attached property through court auction. Hence, prays to allow the I.A.

The Jdr has filed objections to I.A. and submitted that he already paid part of the decretal amount to the decree holder and he is ready to pay remaining amount and prays to grant some time. Hence, prays to dismiss the I.A.

Perused the records. Heard arguments.

The certified copy of decree in OS No.98/2022 shows that the Dhr had filed suit for specific performance against the Jdr and this court patyly decreed the suit on 29.09.2023 and directed the Jdr to refund earnest money of Rs.8,00,000/- with interest to the Dhr within three months from the date of decree. Since the Jdr failed to pay the decretal amount the Dhr filed this petition. Thereafter, this court already attached the land measuring 3 acres in Sy.No.442/1 by passing orders on merits on I.A.No.1 on 08.11.2024. Inspite of it the Jdr failed to pay entire decretal amount to the Dhr. It is true that the Jdr paid part of the decretal

amount to the Dhr. But the same is not sufficient to satisfy the decree. Therefore, in order to satisfy the decree it is just and necessary to sell the attached property. Hence, the following;

ORDER

The application filed by the Dhr U/O 21 Rule 64 of CPC is hereby allowed.

The attached property i.e., land measuring 3 acres in Sy.No.442/1 situated at Benaknalli village, Tq: Sedam is liable to sale to satisfy the decree passed by this court in OS No.98/2022 on 29.09.2023.

Senior Civil Judge & JMFC, Sedam.

For steps 21.02.2026.

Senior Civil Judge & JMFC, Sedam.