

Heard the arguments, advanced by the Learned Counsel for the DHr and that of the Learned Counsel for the JDr in length.

For,

ORDER

This order arising out of the filed by the DHr for police protection of Execution of Attachment of movables as shown in the schedule No. 1 and 2, to obtain the possession of Medical Equipment's it is stated in the affidavit that as per order of the Court they went to the premises of the JDr the JDr not come forward to handle the possession of the Medical Equipment's and resisted the Execution of warrant, and pray to allow the application for providing the Police Protection for Execution of the warrant.

2. Per contra the JDr filed the objection stating that Medical Equipment's as shown in schedule No. 1 and 2 are not identifiable an application is not maintainable and pray to dismiss the application by relying on the Judgment reported in 1982(2) SCC 456 wherein it was held that if decree holder satisfactorily establishes identity of the property for which the decree was passed, the decree must be executed and decree holder put in possession of the property.

3. There after I hear the arguments, advanced by the Learned Counsel for the DHr and that of the Learned Counsel for the JDr in length.

4. The Points that would arise from my consideration are as under:

Point No. 1. Whether the application filed by the DHr U/s 151 of C.P.C for police protection for execution warrant of attachment of movables, deserves to be allowed,

Point No. 2 What Order ?

5. My finding to the above points are as under :

Point NO. 1 in the affirmative,

Point No. 2 as per the final order for the following:

Reasons :

6. It is pertinent to note that The DHr has filed the Execution petition in pursuance of Decree passed in Commercial Appeal No. 52/2021, passed by the Hon'ble High Court of Karnataka in view of the settlement between the parties on 18.09.2021, the wherein the JDr agreed to deliver the Medical Equipment's. It is pertinent to note that as per detailed order dated 29.06.2022 the Court directed to JDr to deliver the Medical Equipment's as described in the Schedule No. 1 and

2 in terms of settlement in Commercial Appeal No. 52/2021 inspite of direction issued by the Court by passing detailed order dated 29.06.2022 the JDr has not delivered the Medical Equipment's as described in Schedule No. 1 and 2. It is pertinent to note that the warrant of Attachment of movables returned with an endorsement that execution of warrant, under the circumstances it is necessary to Provide the Police Protection for Execution Attachment warrant of movables, the DHr has not produced any stay order before the Court regarding staying the further proceedings under the circumstances. It is

necessary to execute the Attachment warrant of movables. The Judgment relied by the Learned Counsel for the JD'r not going the helpful to the case of the JD'r's.

7. It is pertinent to note that inspite of direction by the Court to the JD'r as per order dated 29.06.2022, in pursuance of Decree passed in Commercial Appeal No. 52/2021 the JD'r has not delivered the Medical Equipment's to the DHr , Therefore it is necessary to issue Delivery Warrant for seizure of Movable property described in Schedule 1 and 2 as per Appendix E. form No. 9 (U/o 21 Rule 31) to seize the Movable property and to Deliver the Same to the Decree Holder with Police Assistance for Execution of Attachment warrant of Movables. In the Result I proceed to pass the following:

ORDER

Issue Warrant of Seizure of Specific Movable Properties as described in Schedule 1 and 2, as provided Under Appendix E. Form No. 9 of the C.P.C. and to seize the Movable properties as

described in schedule 1 and 2 and to deliver them to the Decree Holder, in pursuance of Decree passed in Commercial Appeal No. 52/2021, by the Hon'ble High Court of Karnataka Accordingly, if PF, and necessary charges are paid.

Issue necessary direction to the concerned Police Inspector of the Jurisdictional Police Station for providing Police Assistance for Execution of Attachment warrant of Movables if PF, paid.

II Addl. District & Sessions,
Judge, Mysuru

For hearing on Application U/s 33 r/w
article 11 of Karnataka Stamp Act, and 17
of Arbitration Act.

Call on 31.10.2022.

II Addl. District & Sessions,
Judge, Mysuru