

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC  
NANJANAGUDU**

**PRESENT**

**Sri. Sathisha K.G.,** B.A.,LL.B.  
Principal Civil Judge & JMFC., Nanjanagudu

**Dated: 4<sup>th</sup> day of April, 2026**

**EXECUTION PETITION NO.36/2024**

**DECREE HOLDER** :: Chief Executive Officer,  
Primary Agricultural Co-operative  
Society Limited,  
Hullhalli Village and Hobli,  
Nanjanagudu Taluk.

(By Sri. K.S. Mruthunjaya, Advocate)

**- V/s -**

**JUDGMENT-  
DEBTOR** Sri. C. Manjunath S/o Chandru,  
:: Aged about 36 years,  
R/at Hullahalli Village and Hobli,  
Nanjanagudu Taluk.

(By Sri. A.C. Prakash. Advocate)

**ORDER ON APPLICATION FILED U/O.XXI RULE 97 AND 101  
OF C.P.C. BY THE OBJECTOR BY NAME  
SRI. RANGASWAMYSHETTY**

The Objector Sri. Rangaswamysheetty has filed this application to adjudicate upon his right and possession over the petition schedule property.

2. In the affidavit filed in support of application, the objector has stated that, three days back the Decree holder had

been to execution Petition Schedule Property along with Court Ameen, the Court Employee has narrated the back ground of the present Execution Petition and in O.S. No.72/2021, he learnt that, the Judgment-Debtor had entered into Lease Agreement with the Decree Holder on 10/01/2014 pertaining to the Execution Petition Schedule Property for a period of 33 months, after expiry of the said period the Decree holder had institute O.S.No.72/2021 against the Judgment-Debtor, in that suit the Decree holder has sought for the relief of recovery of Possession and claiming of Arrears of the Rent. The Judgment-Debtor participated in the above said proceedings and eventually after due contest the said suit was Decreed on 28/02/2024, thereafter the present Execution Petition came to be filed by the Decree Holder against the Judgment-Debtor to enforce the Judgment and Decree. Further, the Judgment-Debtor is well known to him since 10 years, he used to borrow hand loan from him continuously since 2021, in the month of January 2022, the Judgment-Debtor had approached him and availed Rs.2,00,000/- to improve his Saloon shop which was running by him, owing to default to repay the same within span of 2 months, the Judgment-Debtor absconded without repay the

same and at the time of availing loan from him he had handed over one key of the Execution Petition Schedule Property (Commercial Shop Stall), thereafter in the month of March-2022 he had entered into the Execution Petition Schedule Property and started Saloon shop and he has been rendering service to his concerned Men's customer. He has invested about Rs.3,00,000/- amount to install structure in Petition Schedule Property, since then he has been in possession and enjoyment of the Execution Petition Schedule Property without anybodies interruption. The Decree holder is known well about he has been running Saloon shop in the Execution Petition Schedule Property since the aforesaid date, in pursuance of the delivery warrant passed by this Hon'ble Court the Decree Holder tried to dispossess him from the Execution Petition Schedule Property 3 days back, he has applied for license from concerned Grama Panchayath to run Saloon shop for a period of 2025-26, the Application is pending for adjudication He has occupied the possession of the Execution Petition Schedule Property on his own and independently, Hence the Judgment and Decree passed in OS.No.72/2021 is not binding on him. Hence, the Judgment and Decree cannot be enforced against him without

following due process of law. Hence, this application is filed to adjudicate his right and possession over the Execution Petition Schedule Property. The Judgment-Debtor in his additional affidavit has sworn to that, the Judgment-Debtor has inducted him into the petition schedule property and he had executed possession document in his favour. At the time of enter into lease agreement the Decree-Holder is not at all owner and the said property belongs to PWD authority. The Decree-Holder illegally constructed the Execution Petition schedule property and obtained decree without title, which is not enforceable in the eye of law. If this application is allowed no hardship and no injury and inconvenience caused to the other side, if the application is not allowed the great hardship and inconvenience is caused to him and he will be put into irreparable loss and injury. Hence, he sought for adjudicate his right as well as his possession and sought for allow the application.

3. After receipt of application, the Decree-Holder has filed objection to the application by contending that, the application is not maintainable either in law and on facts. The objector has no right to obstruct and adjudicate his right in this petition. Hence, the Decree-Holder has sought for rejection of

application.

4. For disposal of application, following points arise for consideration:-

1. Whether applicant/obstructor has made out grounds to allow the application as prayed for?
2. What Order?

5. Heard arguments from both sides. My findings to the above points are as under:-

Point No.1 : In the Negative

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

### **REASONS**

6. **POINT NO.1**:- The present execution petition is filed to get the possession of petition schedule property in terms of decree passed in O.S.No.72/2021. Admittedly, the said suit was decreed vide order dated 28/02/2024.

7. The question which emerges for consideration is whether an application filed by a third party objector under Order 21 Rule 97 and 101 CPC in execution proceedings, the same has to be mandatorily considered after framing of the issues and treating it to be a suit.

8. Before advertizing to decide the issue in hand, a cursory glance of Order 21, Rule 35; Order 21, Rule 36 and Order 21 Rule 97 to 101 is necessary, which are extracted here as under:-

"35. Decree for immovable property.--(1) Where a decree is for the delivery of any immovable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property.

(2) Where a decree is for the joint possession of immovable property, such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum, or other customary mode, at some convenient place, the substance of the decree.

(3) Where possession of any building on enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court, through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

36. Decree for delivery for immovable property when in occupancy of tenant--Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish

such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.

97. Resistance or obstruction to possession of immovable property.--(1) Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Court complaining of such resistance or obstruction.

(2) Where any application is made under sub-rule (1), the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

98. Orders after adjudication.--(1) Upon the determination of the questions referred to in rule 101, the Court shall, in accordance with such determination and subject to the provisions of sub-rule (2),--

(a) make an order allowing the application and directing that the applicant be put into the possession of the property or dismissing the application; or

(b) pass such other order as, in the circumstances of the case, it may deem fit.

(2) Where, upon such determination, the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment-debtor or by some other person at his instigation or on his behalf, or by any transferee, where such

transfer was made during the pendency of the suit or execution proceeding, it shall direct that the applicant be put into possession of the property, and where the applicant is still resisted or obstructed in obtaining possession, the Court may also, at the instance of the applicant, order the judgment-debtor, or any person acting at his instigation or on his behalf, to be detained in the civil prison for a term which may extend to thirty days.

99. Dispossession by decree-holder or purchaser.--

(1) Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession.

(2) Where any such application is made, the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

100. Order to be passed upon application complaining of dispossession.--Upon the determination of the questions referred to in rule 101, the Court shall, in accordance with such determination,--

(a) make an order allowing the application and directing that the applicant be put into the possession of the property or dismissing the application; or

(b) pass such other order as, in the circumstances of the case, it may deem fit.

101. Question to be determined.--All questions (including questions relating to right, title or interest in the property) arising between the parties to a

proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions."

9. From the reading of sub-clause (1) of Rule 35 Order 21, it is clear that the executing court delivers actual physical possession of the disputed property to the decree-holder or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property. The significance is of the words removing any person bound by the decree.

10. Rule 36 of Order 21 envisages that when the immovable property is in possession of a tenant or other person not bound by the decree, the Court delivers possession by affixing a copy of the warrant in some conspicuous place of the said property and proclaiming to be occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.

11. While Order 21 Rule 97 envisages resistance or obstruction to the possession of immovable property when made in execution of a decree by "any person". This may be either by the person bound by the decree, claiming title through the judgment-debtor or claiming independent right of his own including a tenant not party to the suit or even a stranger. A decree-holder, in such a case, may make an application to the executing court complaining such resistance for delivery of possession of the property. Rule 101 provides for all questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under Rule 97 or Rule 99 shall be determined by the Court dealing with the application and not by separate suit for this purpose. Rules 97 and 101 were amended by Amending Act of 1976 so as to shorten the litigation as the decree-holder could not get the fruits of the decree fructified due to long drawn battles.

12. Thus, from the conjoint reading of Rule 35 of Order 21, Rule 36 of Order 21 and Rules 97 to 101 of Order 21, it culls out that Rule 35 Order 21 deals with delivery of possession of an immovable property to the decree-holder by

delivery of actual physical possession and removing any person in possession who is bound by the decree, while Order 21 Rule 36 provides only for a symbolic possession where the tenant is in actual possession. While Order 21 Rule 97 conceives of cases where delivery of possession to the decree-holder is resisted by any person. "Any person". "Any person" is wide enough to include even a person not bound by a decree or claiming right in the property on his own including that of a tenant including a stranger. Prior to 1976 Amendment, Rule 101 of Order 21 was different and by virtue of then Rule 103, a person was to file a suit for establishing his right, but post amendment one need not file suit even in such case as all disputes are to be settled by executing court itself finally under Rule 101 of Order 21 C.P.C.

13. In the case in hand, the eviction proceedings by decree-holder was launched against Judgment Debtor in the year 2021 and the suit was decreed on 28.02.2024. Present litigation has been started at the behest of objector by filing application under Order 21 Rule 97 and 101 C.P.C, immediately after issuance of delivery warrant. The important fact for consideration is that the objector in his Additional affidavit has

stated that, he has taken possession of the petition schedule property from Judgment-Debtor as per agreement dated:10/03/2022, but in the affidavit filed in support of application he has stated that, the Judgment-Debtor has borrowed loan of Rs.2,00,000/- from him to improve his Saloon Shop which was running by him and handed over one Key of the petition schedule property and thereafter he entered into petition schedule property in the month of March-2022. On perusal of additional affidavit and affidavit filed in support of application clearly show that he has made contradictory statement about taking possession of schedule property.

14. This Court finds from the reading of the application filed by the objector that he has taken different stand about taking possession from Judgment-Debtor and he has claimed possession through Judgment debtor.

15. The Hon'ble Apex Court in case of Silverline Forum Pvt Ltd vs Rajiv Trust, AIR 1998 SC 1754 while dealing with somewhat similar issue under Order 21 Rule 97 held that all questions arising between the parties to a proceeding on an application under Rule 97, would envelop only such questions

as would legally arise for determination between those parties. In other words, the court is not obliged to determine a question merely because the resister raised. According to the Hon'ble Court, the question which executing court is obliged to determine under Rule 101, must possess two adjuncts. First is that such questions should have legally arisen between the parties, and the second is, such questions must be relevant for consideration and determination between the parties. The Hon'ble Apex court further held that in adjudication process envisaged under Order 21 Rule 97(2) of the Code, the execution court can decide whether the question raised by a resister or obstructor legally arises between the parties.

Relevant paragraphs 10 to 14 are extracted here asunder:-

"10. It is true that Rule 99 of Order 21 is not available to any person until he is dispossessed of immovable property by the decree-holder. Rule 101 stipulates that all questions "arising between the parties to a proceeding on an application under Rule 97 or Rule 99" shall be determined by the executing court, if such questions are "relevant to the adjudication of the application". A third party to the decree who offers resistance would thus fall within the ambit of Rule 101 if an adjudication is warranted as a consequence of the resistance or obstruction made by him to the execution of the decree. No doubt if the resistance was made by a transferee pendente lite of the judgment-debtor, the scope of the adjudication would

be shrunk to the limited question whether he is such a transferee and on a finding in the affirmative regarding that point the execution court has to hold that he has no right to resist in view of the clear language contained in Rule 102. Exclusion of such a transferee from raising further contentions is based on the salutary principle adumbrated in Section 52 of the Transfer of Property Act.

11. When a decree-holder complains of resistance to the execution of a decree it is incumbent on the execution court to adjudicate upon it. But while making adjudication, the court is obliged to determine only such question as may be arising between the parties to a proceeding on such complaint and that such questions must be relevant to the adjudication of the complaint.

12. The words "all questions arising between the parties to a proceeding on an application under Rule 97" would envelop only such questions as would legally arise for determination between those parties. In other words, the court is not obliged to determine a question merely because the resister raised it. The questions which the executing court is obliged to determine under Rule 101, must possess two adjuncts. First is that such questions should have legally arisen between the parties, and the second is, such questions must be relevant for consideration and determination between the parties, e.g., if the obstructor admits that he is a transferee pendente lite it is not necessary to determine a question raised by him that he was unaware of the litigation when he purchased the property. Similarly, a third party, who questions the validity of a transfer made by a decree-holder to an assignee, cannot claim that the question regarding its validity should be decided during

execution proceedings. Hence, it is necessary that the questions raised by the resister or the obstructor must legally arise between him and the decree-holder. In the adjudication process envisaged in Order 21 Rule 97(2) of the Code, the execution court can decide whether the question raised by a resister or obstructor legally arises between the parties. An answer to the said question also would be the result of the adjudication contemplated in the sub-section.

13. In the above context we may refer to Order 21 Rule 35(1) which reads thus:

"35. (1) Where a decree is for the delivery of any immovable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property."

14. It is clear that the executing court can decide whether the resister or obstructor is a person bound by the decree and he refuses to vacate the property. That question also squarely falls within the adjudicatory process contemplated in Order 21 Rule 97(2) of the Code. The adjudication mentioned therein need not necessarily involve a detailed enquiry or collection of evidence. The court can make the adjudication on admitted facts or even on the averments made by the resister. Of course the court can direct the parties to adduce evidence for such determination if the court deems it necessary."

16. In *Bool Chand(D) Through Legal Heirs and others vs Rabia and others*, 2016 Supreme (SC) 1656, the Hon'ble Apex

Court held that a genuine petition to execution of a decree can certainly be considered and frivolous objections which deprive the decree-holder of benefit of such decree should be discouraged. Relevant paras 11 and 12 are extracted here asunder:-

"11. It is clear from the finding recorded by the courts below that the predecessor of the respondents was party to the sale certificate which the respondents never challenged. There is no evidence on record that they were in possession prior to the passing of the decree as they did not take part in proceedings in spite of knowledge of the proceedings for a long period of time. The suit was duly contested by the original defendants for a long period of 30 years. It could not, thus, be held that the original defendants had colluded with the appellant-plaintiffs. In this view of the matter, there was no justification for the High Court to have set aside the order of the courts below only by observing that the executing court had not recorded finding that regular enquiry, as suit, was not required. This observation is also against the record as the executing court has, after finding that the objections were misconceived in substance, held that no regular enquiry as a suit was required. There was thus, no infirmity in the finding recorded by the courts below in rejecting the objections.

12. While a genuine petition for execution of a decree can certainly be considered, the court cannot be oblivious of frivolous objections being filed after a decree is passed in long-drawn contested proceedings. Attempt to deprive the decree-holder of

benefit of such decree should be discouraged by the court where such objection is raised. The impugned order is thus, clearly erroneous and unsustainable and not a result of sound judicial approach."

17. In Noorduiddin vs Dr.K.L.Anand, (1995) 1 SCC 242, the Hon'ble Apex Court held that the scheme of the Code pursuant to the amendment of 1976 appears to put an end to the protraction of the execution and to shorten the litigation between the parties or persons claiming right, title and interest in the immovable property in execution. Relevant paragraphs 8 and 9 are extracted here asunder:-

"8. Thus, the scheme of the Code clearly adumbrates that when an application has been made under Order 21, Rule 97, the court is enjoined to adjudicate upon the right, title and interest claimed in the property arising between the parties to a proceeding or between the decree-holder and the person claiming independent right, title or interest in the immovable property and an order in that behalf be made. The determination shall be conclusive between the parties as if it was a decree subject to right of appeal and not a matter to be agitated by a separate suit. In other words, no other proceedings were allowed to be taken. It has to be remembered that preceding Civil Procedure Code Amendment Act, 1976, right of suit under Order 21, Rule 103 of 1908 Code was available which has been now taken away. By necessary implication, the legislature relegated the parties to an adjudication of right, title or interest in the

immovable property under execution and finality has been accorded to it. Thus, the scheme of the Code appears to be to put an end to the protraction of the execution and to shorten the litigation between the parties or persons claiming right, title and interest in the immovable property in execution.

9. Adjudication before execution is an efficacious remedy to prevent fraud, oppression, abuse of the process of the court or miscarriage of justice. The object of law is to mete out justice. Right to the right, title or interest of a party in the immovable property is a substantive right. But the right to an adjudication of the dispute in that behalf is a procedural right to which no one has a vested right. The faith of the people in the efficacy of law is the saviour and succour for the sustenance of the rule of law. Any weakening like (sic) in the judicial process would rip apart the edifice of justice and create a feeling of disillusionment in the minds of the people of the very law and courts. The rules of procedure have been devised as a channel or a means to render substantive or at best substantial justice which is the highest interest of man and almanac (sic) for the mankind. It is a foundation for orderly human relations. Equally the judicial process should never become an instrument of oppression or abuse or a means in the process of the court to subvert justice. The court has, therefore, to wisely evolve its process to aid expeditious adjudication and would preserve the possession of the property in the interregnum based on factual situation. Adjudication under Order 21, Rules 98, 100 and 101 and its successive rules is sine qua non to a finality of

the adjudication of the right, title or interest in the immovable property under execution."

18. In N.S.S. Narayana Sarma and others vs Goldstone Exports (P) Ltd and others, (2002) 1 SCC 662., the Honble Apex Court considering the earlier decisions held as under:-

"15. Provision is made in the Civil Procedure Code for delivery of possession of immovable property in execution of a decree and matters relating thereto. In Order 21 Rule 35 provisions are made empowering the executing court to deliver possession of the property to the decree-holder if necessary, by removing any person bound by the decree who refuses to vacate the property. In Rule 36 provision is made for delivery of formal or symbolical possession of the property in occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy. Rules 97 to 101 of Order 21 contain the provisions enabling the executing court to deal with a situation when a decree-holder entitled to possession of the property encounters obstruction from "any person". From the provisions in these Rules which have been quoted earlier the scheme is clear that the legislature has vested wide powers in the executing court to deal with "all issues" relating to such matters. It is a general impression prevailing amongst the litigant public that difficulties of a litigant are by no means over on his getting a decree for immovable property in his favour. Indeed, his

difficulties in real and practical sense, arise after getting the decree. Presumably, to tackle such a situation and to allay the apprehension in the minds of litigant public that it takes years and years for the decree-holder to enjoy fruits of the decree, the legislature made drastic amendments in provisions in the aforementioned Rules, particularly, the provision in Rule 101 in which it is categorically declared that all questions including questions relating to right, title or interest in the property arising between the parties to a proceeding on an application under Rule 97 or Rule 99 or their representatives, and relevant to the adjudication of the application shall be determined by the court dealing with the application and not by a separate suit and for this purpose, the court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions. On a fair reading of the Rule it is manifest that the legislature has enacted the provision with a view to remove, as far as possible, technical objections to an application filed by the aggrieved party whether he is the decree-holder or any other person in possession of the immovable property under execution and has vested the power in the executing court to deal with all questions arising in the matter irrespective of whether the court otherwise has jurisdiction to entertain a dispute of the nature. This clear statutory mandate and the object and purpose of the provisions should not be lost sight of by the courts seized of an execution proceeding. The court cannot shirk

its responsibility by skirting the relevant issues arising in the case.

(emphasis supplied)

19. Interpreting the provisions in these Rules, a three-Judge Bench of this Court in the case of Silverline Forum (P) Ltd v. Rajiv Trust [(1998) 3 SCC 723] held : (SCC pp. 727-28, paras 10-12)

"10. It is true that Rule 99 of Order 21 is not available to any person until he is dispossessed of immovable property by the decree-holder. Rule 101 stipulates that all questions 'arising between the parties to a proceeding on an application under Rule 97 or Rule 99' shall be determined by the executing court, if such questions are 'relevant to the adjudication of the application'. A third party to the decree who offers resistance would thus fall within the ambit of Rule 101 if an adjudication is warranted as a consequence of the resistance or obstruction made by him to the execution of the decree. No doubt if the resistance was made by a transferee pendente lite of the judgment-debtor, the scope of the adjudication would be shrunk to the limited question whether he is such a transferee and on a finding in the affirmative regarding that point the execution court has to hold that he has no right to resist in view of the clear language contained in Rule 102. Exclusion of such a transferee from raising further contentions is based on the salutary

principle adumbrated in Section 52 of the Transfer of Property Act.

11. When a decree-holder complains of resistance to the execution of a decree it is incumbent on the execution court to adjudicate upon it. But while making adjudication, the court is obliged to determine only such question as may be arising between the parties to a proceeding on such complaint and that such questions must be relevant to the adjudication of the complaint.

12. The words "all questions arising between the parties to a proceeding on an application under Rule 97' would envelop only such questions as would legally arise for determination between those parties. In other words, the court is not obliged to determine a question merely because the resister raised it. The questions which the executing court is obliged to determine under Rule 101, must possess two adjuncts. First is that such questions should have legally arisen between the parties, and the second is, such questions must be relevant for consideration and determination between the parties, e.g., if the obstructor admits that he is a transferee pendente lite it is not necessary to determine a question raised by him that he was unaware of the litigation when he purchased the property. Similarly, a third party, who questions the validity of a transfer made by a decree-holder to an assignee, cannot claim that the question regarding its validity should be decided

during execution proceedings. Hence, it is necessary that the questions raised by the resister or the obstructor must legally arise between him and the decree-holder. In the adjudication process envisaged in Order 21 Rule 97(2) of the Code, the execution court can decide whether the question raised by a resister or obstructor legally arises between the parties. An answer to the said question also would be the result of the adjudication contemplated in the sub-section."

(emphasis supplied)"

20. Thus, from the reading of provisions of Order 21, Rule 97-101 CPC and decisions rendered by Hon'ble Apex Court, it is clear that executing court is not obliged to determine a question merely because the resistor or objector has raised it. The question which the executing court is obliged to determine under Rule 101 must possess two adjuncts. Firstly, such question should have legally arisen between the parties and secondly, it must be relevant for consideration and determination between the parties.

21 In the present case, the third party objector came into picture for the first time immediately after issuance of delivery warrant alleging that he was not aware of the proceedings which are going on since 2021 and for the first time came to know when delivery warrant has been issued. In the affidavit he

has claimed possession through Judgment debtor. This Court finds that Honble Apex Court had clearly interpreted Rule 97 read with Rule 101 of Order 21 post amendment wherein the executing court has to determine under Rule 101 Order 21 of the Code that the question raised has legally arisen between the parties and secondly the question must be relevant for consideration and determination between the parties.

22. In the present case, this Court finds that the application moved under Order 21 Rule 97 does not raise any question to be determined and is only an application by the objector through judgment debtor trying to stall and delay the execution proceeding filed by decree-holder. From the facts narrated above, it is clear that, the obstructor/applicant has no right to file this application and he do not fall within any of the categories enumerated under Order 21 Rule 97 of C.P.C.

23. The matter can be viewed from another angle. Section 47 of the Code of Civil Procedure provides that, all the questions arising between the parties to the suit in which, the decree was passed or the representative and relating to the execution, discharge or satisfaction of the decree shall be

determined by the Court executing the decree and not by a separate suit. It has further been provided that, where a question arises as to whether any person is or is not the representative of a party, such question also be determined by the executing Court. Section 47 of the Code of Civil Procedure enables parties to the suit in which the decree was passed to approach the executing Court for deciding a question relating to execution, discharge or satisfaction of the decree. It is well settled that, the executing Court cannot go behind the decree. A person, who is not a party to the decree or who doesn't claim through any such party, has not been given any right in execution proceedings under the Code of Civil Procedure to challenge a decree passed, which is sought to be executed. In the present case, the obstructer is not a party to the suit in O.S.No.72/2021 and till today he has not challenged the decree passed by this Court and the said decree attained finality. Mere allegation that, he had independent right over the property doesn't itself resist the obstruction and if any grievance he ought to have challenge the decree passed by this Court. Hence, the obstructer has no right to resist the execution proceedings. The decisions relied on by the learned counsel for

the objector are distinguishable on facts and hence, they are not applicable to the facts of the present case.

24. This Court finds that it is vivid and, therefore, hardly any room of doubt is available in seeing that the source of title or authority of Objector's entry in the petition schedule property done and claimed by the objector is not independent, and in exclusion to the Judgment Debtor. Thus status of objector is not of an outsider or a stranger, who on the facts of the case may have been saying that the Objector is a total stranger and unrelated to the Judgment Debtor and possesses the petition schedule property in his/her own right including such as a possessory title. It is seen that Objector has not shown that he is a person who has primary title in his own right since time which is prior to the suit, the decree wherein is in execution.

25. Therefore, here is a case where on showing by the Objector, his entry in the petition property is forcible, where he is an articulated manner says that the petition schedule property was vacant and he has entered the property and is running the business there. It is pertinent to note here that at no point of time in the process of progress of suit, the defendant

had ever disclosed that the objector had entered the suit property, and that the defendant being illegally dispossessed was not in physical possession of suit property, and that the present objector was actually in possession. It is pertinent to note that Regular Civil Suit No.72/2021 was decided on 28/02/2024, while the entire story of objector's having entered and actually run the shop had never been disclosed before the Court. Entire story built by Objector is totally articulated. This demonstrates that the objector's plea is based on falsehood and proves that he is an imposter and is set up by Judgment debtor only.

26. On showing by the objector, the question that falls for consideration is whether the objector has a status of independent of the judgment debtor, and this question stands governed by the pleadings and record and is answered in negative.

27. The scope and nature of enquiry shall always depend on the nature of claim of source of title, which an objector pleads. Now on facts, this Court finds on showing by the

objector that he has no independent status and enquiry of fact finding as to his status becomes wholly un-necessary.

28. On his showing, he is an imposter to be an objector in disguise. It can be concluded on the very face of it that the objector is set up by the judgment debtor. Even as an independent trespasser during the pendency of suit, the objector does not have a claim against a rightful claimant who has a decree in his favour. Law, equality or any other known or newly emerged doctrine do not come to the rescue of the objector herein.

29. In the present case, it is seen on facts that on showing by the applicant, he has no independent right, title and interest and no issue at all arise for enquiry. It would, therefore, be unjust and contrary to the scheme of law to hold that notwithstanding what is the status of objector a fullfledge enquiry like in a suit would be warranted. A contrary view would amount to permitting abuse of process of law. Objector's status that he claims through Judgment Debtor is clear and is seen even without enquiry of any time for the purpose of lifting veil.

Hence, no further enquiry whatsoever has needed on what has pleaded in the objection.

30. The petition of objection which has been framed for and on behalf of the Objector has ingeniously drafted. Ingenuity thereof being misplaced and exerted at wrong quarter, and malicious and for wrong objective does not deserve to be acclaimed, and invites a blame of ingenuity which is employed to defeat the cause of justice. In view of above discussion, the obstructer has not made out any grounds to allow the application. Accordingly, Point No.1 is answered in the **Negative.**

31. **POINT NO.2:-** In the light of the above discussion, this court proceed to pass the following:-

**ORDER**

Application filed U/O.XXI Rule 97 and 101 of C.P.C. by the obstructer/applicant by name Sri.Rangaswamy Shetty is hereby rejected.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed by him, the same is corrected, revised, signed and then pronounced by me in the open Court, on this the **4<sup>th</sup> day of April, 2026**)

**(SATHISHA K.G.)**  
Principal Civil Judge & JMFC,  
Nanjanagudu.