

KAMS610001402022



**IN THE COURT OF THE I ADDITIONAL CIVIL
JUDGE AND JMFC., AT PERIYAPATNA**

Present: **Smt. Shwetha.J BCOM., L.L.B.,**
I Addl. Civil Judge & JMFC.,

Dated: this 12th day of December 2025

Ex.No.5/2022

DECREE HOLDER : Sri.A.J.Sathisha,
S/o late Javaregowda,
Aged about 52 years,
R/at Ambalare Village,
Harannahalli Hobli,
Periyapatna Taluk,
Mysuru District.

(Sri.KAS.,Advocate)

V/s.,

JUDGMENT DEBTOR: Sri.Prabhakar
S/o Javaregowda,
Aged about 33 years,
R/at Ambalare Village,
Harannahalli Hobli,
Periyapatna Taluk,
Mysuru District.

(By Sri.CKM.,Advocate)

**ORDERS UNDER ORDER XXI RULE 2 OF
CPC**

The instant petition is filed by the D.Hr under order XXI Rule 2 of CPC., with a prayer for attachment warrant of movable properties of J.Dr, Issue arrest warrant against the J.Dr and detention in civil prison and attachment and sale of the movable and immovable properties of J.Dr.

2. The D.Hr has contended that the Decree Holder has filed the suit against the J.Dr in O.S.No.386/2016 on the file of this Court and even after the decree, the J.Dr having sufficient means failed to pay the decretal amount and interest and intentionally avoiding to pay the same. Hence the present petition.

3. After service of notice, the J.Dr has filed his objection to the main petition and stated that he has no means to pay the decretal amount. He also contended that as per Section 4 of the Karnataka Debt Relief Act 2018, the D.Hr has no right to recover any amount from the J.Dr. Hence prayed to dismiss the petition. He has also maintained I.A.No.I under Section 4 of Karnataka Debt Relief Act to discharge him from the present petition.

4. In order to establish the means of J.Dr, the D.Hr entered the witness box as PW.1 and got marked Ex.P1 to P.8 documents. On the other hand, the J.Dr has entered the witness box as Dw.1 and got marked one document at Ex.D.1.

5. Heard arguments both sides.

6. The points that arise for my determination are:

1. *Whether the Dhr has made out the grounds to allow the petition ?*
2. *Whether the J.Dr has made out the grounds as contended in I.A.No.I?*
3. *What order?*

7. My findings to the above points are hereunder;

Point No.1 : In the **Affirmative**

Point No.2 : In the **Negative**,

Point No.3: As per final order for the following;

REASONS

8. **Point No.1 and 2** : Admittedly, the suit filed by the D.Hr in O.S.No.386/2016 was

decreed in favour of the plaintiff. In the said suit, the defendant/J.Dr appeared through his Counsel Sri.R.D and contested the matter. The said suit was decreed to the effect that the defendant shall have to pay Rs.1,34,200/- to the plaintiff along with interest at the rate of 2% P.M from the date of filing of the suit till the date of decree and at the rate of 6% p.a., from the date of decree till its realization.

9. Since the J.Dr has not fulfilled the decree, the D.Hr has filed this petition claiming the petition amount of Rs.2,23,145/-. After service of notice, the J.Dr came with the objection taking the contention that he has no means and prayed to discharge him from this petition as per Section 4 of the Karnataka Debt Relief Act. As per Section 4 of Karnataka Debt Relief Act, it applies to Small farmer, landless agricultural labourers, and weaker sections facing overwhelming debts. If the debts advance

before its commencement and it is found that the J.Dr comes under the above category, the J.Dr is discharged. In this back ground let me analyses whether the J.Dr comes under the above said category.

10. The D.Hr in his evidence has got marked the RTC of Sy.No.30 at Ex.P.1 standing in the name of J.Dr along with his mother and Ravi.J S/o late Javaregowda to an extent of 1 acre 20 guntas. Ex.P.2 is the MR.No.H124/2022-23 the change of katha in respect of Sy.No.32 to an extent of 1 acre 20 guntas in favour of Yashodamma (mother) Ravi.J and Prabhakara.J (Jdr). Ex.P.3 is the RTC of Sy.No.34/1 measuring 0.12 gunts in the name of Yashodamma. Ex.P.4 is the MR.No,T16/2019-2020 of Sy.No.34/1 in the name of Yashodamma. Ex.P.5 is the photo of house, Ex.P.6 is the CD, Ex.P.7 and P.8 are the Statement of Tobacco Board in the name of Yashodamma.

11. In the cross examination of J.Dr/DW.1 has admitted that Yashodamma is his mother and Ravi.J is his brother and they have joint katha in respect of Sy.No.30 which is at Ex.P.1. Dw.1 voluntarily says that an extent of 1 acre 1 guntas out of 1 acre 20 guntas was acquired for channel. There is no entry to that effect in Ex.P.1-RTC of Sy.No.30. He further admits that Sy.No.34/1 of Ambalare Village is standing in the name of his mother. He further admits that Barren house as shown at Ex.P.5-Photo is situated in Sy.No.34/1. He says that he will get Rs.500/- per day from his daily wages, but denies that he is not in a condition to fulfill the decretal amount. In the chief affidavit, the J.DR being the Dw.1 has got marked the Small Farmer Certificate at Ex.D.1. Ex.D.1 is in the name of Yashodamma wife of Javaregowda, the mother of the J.Dr which depicts that Yashodamma is the Small Farmer. The J.Dr has

not produced any document in his name which depicts that he comes under Small Farmer Certificate. Except the document at Ex.D.1, he has not produced any other document that he comes to category of landless agricultural labourers and weaker sections facing indebtedness. Since the RTCs at Ex.P.1 and P.3 and barren licence is in the name of J.Dr, his mother and brother does not prime facie establish that he comes under weaker sections. He is having land in his name along with his mother and brother. He has not filed any indigent suit before any court stating that he is insolvent person. As on the date of his evidence, the J.Dr is aged about 34 years. Therefore it cannot be presumed that he is ill-health or he is not in a position to fulfill the decretal amount. Therefore, this Court opines that he is not entitle for the relief as sought for under Section 4 of the Karnataka Debt Relief Act. Hence, **Point No.1 is**

answered in the Affirmative and Point No.2 is answered in the negative.

12. Point No.3: In view of the discussions made above, this Court proceeds to pass the following;

ORDER

This petition filed under Order XXI Rule II of CPC is hereby allowed.

I.A.No.I filed under Section 4 of the Karnataka Debt Relief Act R/w Section 151 of CPC is dismissed.

Issue attachment warrant of movable and immovable properties of J.Dr. If PF paid. R/by 17.01.2026.

(Dictated to the Stenographer directly on computer, after making necessary corrections and then pronounced by me in the open court, this the 12th day of December 2025)

(SHWETHA.J)

I ADDL. Civil Judge and JMFC
Periyapatna