

**IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC, AT
CHANNAPATNA.**

PRESENT:SRI.MAHENDRA.M B.A, LL.B.,
Prl.Civil Judge & JMFC,
Channapatna.

Dated this 04th day of December-2020

Ex.NO.34/2017

DECREE HOLDER : Sri.Subbegowda

-Vs-

JUDGMENT DEBTOR : Smt.Sarojamma,

I.A.No.II

APPLICANT

DECREE HOLDER : Sri.Subbegowda,
S/o Late Srikantegowda,
Aged about 65 years,
R/at Belkere Village,
Maluru Hobli,
Channapatna Taluk,
Ramangara District.

--V/s--

OPPONENT /

JUDGMENT DEBTOR: Smt.Sarojamma,
W/o Puttaiah,
Aged about 60 years,
R/at Belkere Village,
Maluru Hobli,
Channapatna Taluk,
Ramangara District.

ORDERS ON IA.No.II

This is an application filed by the decree holder under order 21 rule 35(3) and u/o 21 rule 97(1) r//w Section 151 of C.PC seeking police aid to protecting the possession of the DHR in respect of petition schedule property as per the order of Hon'ble High Court of Karnataka in WP No.25094/2017.

2. The averments of the affidavit filed in support of the application are as follows:-

This court passed the judgment and decree in O.S No.12/1992 and declared that, the DHR is the owner in possession of 'B' schedule property. After the judgment and decree the JDR was challenged the said decree before Hon'ble Senior Civil Judge and Hon'ble High Court of Karnataka in R.A. No.18/2002 and RSA No.1408/2006, the said appeals were dismissed. After that, the DHR filed this execution petition and seeking police aid. The police not protect the rights of the DHR, then the DHR filed writ petition before Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka directed to this court to execute the decree. Hence, allow the IA.No.II.

3. The counsel for the JDR has filed an objection to IA.No.II and contended that, the present application filed by the

DHR is barred by limitation. The DHR has not approached this court clean hand. The Hon'ble High Court of Karnataka not passed any order to directing this court to give police help. The decree holder examined as PW.1 and got marked some documents. Case is posted for evidence of judgment debtor at that time the DHR filed present application. Hence, reject the IA.No.II.

4. Heard the arguments and perused the records.

5. The following points are arise for consideration of this court:-

POINTS

1. **Whether the applicant/Decree Holder filed I.A.No.II is deserves to be allowed?**

2. **What order?**

6. This court answer the above points as follows:-

Point No.1:- In the Affirmative

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

REASONS

7. **Point No.1:-** The DHR has filed a suit against the JDR for the relief of declaration and permanent injunction in O.S.

No.12/1992 before this court, the same was decreed and declared that, plaintiff/DHR is the absolute owner in possession over the petition schedule property and directed to defendant/JDR not to interfere with possession and enjoyment of the DHR over the petition schedule property. The DHR has produced the certified copy of judgment and decree in O.S.No.12/1992 before this court.

8. The JDR/defendant challenged the judgment and decree of this court before the hon'ble Addl.Civil Judge(Senior Division at Ramanagara in R. A. No.18/2000, the same was dismissed by confirming the judgment and decree of this court.

9. The JDR/defendatn has challenged the judgment of this court and judgment of Hon'ble 1st Appellant Court before Hon'ble High Court of Karnataka in RSA No.1408/2006, the same was also dismissed. Then the DHR filed present execution petition seeking arrest of JDR and also seeking poliee aid to execute the decree.

10. The predecessor of this court posted the case for enquiry on petition. The DHR has examined as PW.1 and got marked Exs.P1 to 11. The JDR also examined as RW.1. At that stage the DHR has filed an present I.A. In meanwhile the DHR has filed an writ petition before the Hon'ble High Court of Karnataka in

WP No.25094/2017 to challenge the endorsement issued by the PSI of Channapatna Rural Police Station, Channapatna. In this writ petition the Hon'ble High Court Karnataka to give liberty to the DHR to file appropriate execution petition.

11. The counsel for the JDR argued that, the evidence of JDR is required. This court of the opinion that, the evidence of JDR is not necessary, because of this court only execute the decree. The execution of judgment and decree passed by this court is very much necessary and also police aid for execution of decree is required. Hence I.A No.II filed by the DHR is deserves to allowed. **With these observations Answer the Point No.I in the Affirmative.**

12. **Point No.2:-** For the above reasons this court proceed to the pass the following:-

ORDER

The I.A.No.II under order 21 rule 35(3) and under order 21 rule 97(1) R/w section 151 of C.P.C. filed by the DHR is hereby allowed.

No order as to cost.

Directed to PSI of Channapatna Rural Police Station to give protection to the DHR by restraining the JDR from interfere with the possession of the DHR in respect of petition schedule property and same is reported to this court.

Office is directed intimate the same to PSI of Channapatna Rural Police Station if P.F. is paid by the DHR.

Await police report call on.....

Sd/-

**Prl.Civil Judge & J.M.F.C.
Channapatna.**

Order pronounced in open court

(Vide Separate Order sheet)

ORDER

The I.A.No.II under order 21 rule 35(3) and under order 21 rule 97(1) R/w section 151 of C.P.C. filed by the DHR is hereby allowed.

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Ex.34/2017

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Prl.Civil Judge & J.M.F.C.
Channapatna