



**IN THE COURT OF THE III ADDL. CIVIL JUDGE AND JMFC.,
KANAKAPURA**

Present: Sri. Raviprakash T. Avin
B.B.A, LL.M.,

**III Addl. Civil Judge and J.M.F.C.,
KANAKAPURA**

Dated: This the 09th day of July, 2026

EX No.15/2015

DECREE

HOLDERS: 1. Sri.Veerabhadregowda,
S/o Late Eregowda,
Aged about 57 years,

2. Sri. Puttaswamygowda,
S/o Late Eregowda,
Aged about 52 years,

Both are residents of
Vadlegowdanadoddi Village,
Sathanur Hobali,
Kanakapura Taluk.
Ramanagara District.

Vs

**JUDGMENT****DEBTOR/S :**

1. Syed Amjad
S/o Late Syed Akbar
Aged about 62 years,
2. Syed Mustahid
S/o. Late Syed Akbar
Aged about 57 years,

Both are residents of
No.54/10, 12th Cross,
5th Main,
Wilson Garden,
Bangaluru.

ORDER

This Execution Petition is filed by the Decree Holders seeking enforcement of the decree for permanent injunction passed in R. A. No. 103/2011 dated 10.02.2014, alleging that Judgment Debtors No.1 and 2 have willfully violated the said decree.

2. Upon presentation of the petition, Arrest notice was issued against Judgment Debtor No. 1 and 2. However notice could be served only on Judgment Debtor No. 2, who has appeared through his counsel and filed objections. Arrest notice could not be served



on JDr No. 1. Due to incorrect office note dated 03.11.2025, that proceedings against Jdr No. 1 was abated, the case was posted for enquiry. Moreover when the decree can be executed against any of the Judgment Debtors there is no impediment to proceed further.

3. In order to substantiate the allegations made in the execution petition, Decree Holder No. 1 examined himself as PW.1. In affidavit evidence PW1 has reiterated the averments made in the execution petition and specifically deposed regarding the violation of the decree for permanent injunction by Judgment Debtors. PW1 produced and marked the certified copy of the judgment and decree passed in R. A. No. 103/2011 dated 10.02.2014 as Ex.P1 and 2 respectively. PW1 was not cross examined by Judgment Debtor No. 2.

4. Heard learned counsel for the Decree Holders. Learned counsel for the Judgment Debtor No. 2 did not address arguments.

5. This court has perused the pleadings, evidence of PW.1 and the documentary evidence placed on record.

6. Ex.P1 and 2 establishes that a decree for permanent injunction was passed in favour of the Decree Holders and against



the Judgment Debtors. The testimony of PW.1 regarding the violation of the decree has remained unchallenged and unrebutted, as Judgment Debtor No.1, despite service of notice, has chosen not to appear before the Court. There is no material on record to disbelieve the evidence adduced by the Decree Holder.

7. The Hon'ble High Court of Karnataka in the case of *Shivamurthy v. Dannammadevi Cycle Mart*, reported in **AIR 1987 Kar 26**, has held as under;

“6.Sub-rule (1) of Rule 32 of Order XXI of the Code, in so far it is material for the present discussion, reads thus:

“Where the party against whom a decree.....for an injunction has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be enforced in the case of a decree for an injunction by his detention in the Civil prison.....”

The sub-rule, as seen from its clear and explicit language, provides that a decree for injunction passed against a party could be enforced by his detention in a civil prison, if he has wilfully failed to obey such decree despite having had an opportunity of obeying it. In other words, the sub-rule, no doubt, enables a holder of a decree for injunction to seek its execution from the executing Court by requiring it to order the detention of the person bound by the decree, in a civil prison. But, the Court cannot, according to the same sub-rule, make an order for detention of the person unless it is satisfied that person has had an opportunity of obeying the decree and yet has wilfully disobeyed it.

7.If regard is had to the above scope and ambit of the sub-rule, it follows that the executing Court required to execute the decree for injunction against the person bound by that decree, by ordering his detention, cannot do so without recording a finding on the basis of the materials to be produced by the person seeking the execution of the decree that the person bound by the decree, though has had an opportunity of obeying the decree, has wilfully failed to obey it, as a



condition precedent. Hence, what is required of the person seeking execution of the decree for injunction under the sub-rule is to place materials before the executing Court as would enable it to conclude (i) that the person bound by the decree, was fully aware of the terms of the decree and its binding nature upon him; and (ii) that person has had an opportunity of obeying such decree, but has wilfully, i.e., consciously and deliberately, disobeyed such decree, so that it can make an order of his detention as sought for. Thus, the onus of placing materials before the executing Court for enabling it to record a finding that the person against whom the order of detention is sought, has had an opportunity of obeying the decree for injunction, but has wilfully disobeyed it, lies on the person seeking such order of detention, lest the person seeking deprivation of the liberty of another cannot do so without fully satisfying the Court about its need."

8. On the basis of the unrebutted evidence of PW.1 coupled with Ex.P1 and 2, this Court is satisfied that Judgment Debtor No.2 has violated the decree for permanent injunction passed in in R. A. No. 103/2011 dated 10.02.2014. In fact the conduct of the said judgment debtor in not participating in the proceedings diligently shows his disobedience. The Decree Holder has thus established the grounds for execution of the decree under the provisions of Order XXI Rule 32 of the Code of Civil Procedure. Accordingly this court proceeds to pass the following;

ORDER

The Execution Petition is hereby
allowed.



It is held that Judgment Debtors No.2 has violated the decree for permanent injunction passed in R. A. No. 103/2011 dated 10.02.2014.

Issue arrest warrant against to Judgment Debtors No.2, if PF and SA is paid.

Call on 31.07.2026.

(Raviprakash T. Avin)
III Addl. Civil Judge and JMFC,
Kanakapura.