

IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC.,
KUNIGAL

-.PRESENT:-

Sri. Manjunath Shivapooji. B.A., LL.B.,
Addl. Civil Judge & JMFC.,

Dated this the 18th day of July 2026

Ex. No.15/2023

DHr : Boraiah

V/s.

Jdr : Ramaiah

I.A.

APPLICANT : Boraiah

V/s.

OPPONENTS : Ramaiah

ORDERS ON APPLICATION FILED BY THE PLAINTIFF
UNDER SECTION 151 OF C.P.C

The Dhr has filed this application under Section 151 of CPC seeking for police protection to implement the judgment and decree in OS No.264/2010 dated: 20.04.2017.

2. In the affidavit annexed along with the application has contended that, he has filed OS No.264/2010 seeking for injunction against the defendant, restraining him from interfering with the plaintiff's/DHr peaceful possession and enjoyment of the suit schedule property. The said suit was came to be decreed on 20.04.2017 and the defendant restrained from interfering with the possession and enjoyment of suit schedule property. When the situation thus being so, the JDr inspite of the said judgment, are causing obstruction for the peaceful possession over the suit schedule property by the Dhr and he disobey the court judgment and breach the terms of court order. Hence, he has filed the present application seeking for protection of the police.

3. The Jdr has filed objections and contended that, the plaintiff has filed OS No.356/2014 against the Jdr with respect to same schedule property. The said suit came to be dismissed on 03.08.2023. The Dhr has filed this kind of application with

an intention to dispossess the Jdr's possession over the suit property. The application filed by Dhr is devoid of merits and prayed to dismiss the application.

4. On basis of the application, objections and documents on record, the following points that arise for the determination of this court.

1. Whether the Dhr is entitled to the police protection as prayed in the application?

2. What order?

5. Heard arguments. Perused the application, affidavit, objections and records placed before this court.

6. My finding on above points are as follows:-

Point No.1 : In the *negative*

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

::REASONS::

7. **Point No.1:** The plaintiff has filed the present suit for the relief of permanent injunction against the defendant in respect of the suit schedule property. The said suit came to be decreed on 20.04.2017. The plaintiff has filed this petition for execution of judgment and decree in OS No.364/2010.

8. Under the provision of rule 32 of order 21, mode is prescribed for execution of decree for a injunction. In so far, as a decree for injunction is concerned, the same can be executed by attachment of property of person disobeying the decree for injunction or by detention of such person or by both rule 2(a) of 39, the said code empowers the court to penalize the person to has disobied the order. The object of all the said provisions is to ensure that, the orders passed by the court of law are implemented and obeyed by all concerned.

9. The Hon'ble Bombay High Court in the case of *Ratanabi v. Satwarao* has held that,

"It is no doubt that the Police help is an extraordinary mode or procedure to implement the execution of the decree of orders. In other words, Police help is to be regarded as an extreme step, and as such it should not be recommended unless the Court is fully convinced of the existence of a grave emergency. Therefore, a decree-holder praying for police help has to state whether such help is required either;

(1) because of apprehension of violence or obstruction from judgment-debtor himself or at his instance by others or; (ii) because of conditions of a general character such as the locality where execution will have to be effected being in a disturbed state or a class of people, similarly situated being likely to make a common cause with judgment-debtor

and resist execution.”

9. Thus, the special procedure for police help would not be allowed unless there are reasonable ground to suppose that the execution will not be effected without serious danger to public peace, because of apprehension of violence or obstruction from the judgment-debtor himself or because of the conditions of general character as such where the execution will have to be done in disturb stage or a class of people similarly situated being likely to make common cause that the judgment-debtor can resist the execution.

10. Besides this, in addition to the circumstances enumerated above to grant police help the Court must be fully convinced of the existing of grave emergency and to prevent commission of cognizable offence by the judgment-debtor or on his behalf by any person or a third party."

11. The plaintiff had filed OS No.264/2010 to the extent of 26 gunta in Sy.No.43/3B but the present petition is filed for an extent of 27 gunta in Sy.No.43/3B. Further, it is important to note that, the DHr had furnished the RTC of Sy.No.43/3B. On perusal of said documents it appears that, to the extent of 20 gunta is stands in the name of Dhr.

12. The DHr also furnished the order of Assistant Commissioner in RA KUN 154/2015-16. The Dhr had initiated the said proceedings for rectification of measurement of Sy.No.43/3B. On perusal of the judgment and decree in OS No.264/2010, the schedule of this petition and the RTC of Sy.No.43/3B and the order of Assistant Commissioner it appears that there is a something with regard to extent of Sy.No.43/3B is modified. Moreover, the Dhr has filed this kind of application after lapse of 6 years from the date of judgment and decree in OS No.264/2010.

13. The Dhr has filed this petition for execution of judgment and decree in OS No.264/2010. There are several modes are available to execute the judgment and decree for disobeying the decree. As per order 21 Rule 32, if a holder of a decree has successfully established that the judgment debtor has disobeyed the decree then the party who disobeyed the decree shall be detained in civil prison or attached the property of that person . Therefore at this juncture when the Dhr has filed this petition for execution of judgment then it is not permitted to take the help of police for implementation of judgment and decree. There are several modes are available for Dhr for execution of judgment and decree. As observed by this Court, the grant of police aid is an extreme step and therefore order for grant of police help or police assistance cannot be made unless the Court is fully convicted about the existence of grave emergency such as apprehension of violence by the persons against whom the order has been passed. It is

very difficult to give exhaustive list of circumstances in which the Court can exercise the said power. However, said power is to be exercised with caution and the said power can be exercised only after the Court is fully convinced of existence of grave situation warranting exercise of said power.

14. In this case this court has not find out any existence of grave emergency or apprehension of violation. The purpose of the filing this petition for penalize the JDR for his violence. When in this case the apprehension is not been established then it is not proper for Dhr to seek police help. Further the Dhr in support of his application has furnished the acknowledgement issued by Kunigal PS. On perusal of the said acknowledge it appears that the said documents is pertaining for the year 2013, that too before the judgment and decree in Os No.264/2010. The Dhr has not produced the documents to show the Jdr is violated or disobeyed the judgment and decree in Os No.264/2010. Therefore by

considering all the above said observations this court has no hesitation to hold that the application filed by Dhr is devoid of merits. Accordingly, ***point No.1*** is answered in the ***negative***.

15. Point No.2:- For the above discussed reasons, this court proceeds to pass the following:

::ORDER::

IA filed by the DHr under
Section 151 of C.P.C. is hereby
dismissed on cost of Rs.1,000/-

For enquiry by 04.09.2026.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the ***18th day of July , 2026***]

Sd/-

[Manjunath Shivapooji]
Addl Civil Judge and JMFC,
Kunigal.