

ORDERS

The counsel for the DHR has filed IA No.5 U/o 6 Rule 17 of CPC with a prayer to permit the applicants to amend the petition as sought for in the interest of justice and equity.

2. The proposed amendment is as follows;

After cause title of the petition, delete the provision of the petition “under order 21 rule 11 of C.P.C” and insert as “under order 21 rule 32 and 34 R/w Sec.151 of C.P.C”.

3. In the affidavit annexed to the IA, the DHR submits that he has filed the present execution petition to execute registered sale deed as per the decree in O.S.No.215/2010, but however, at the

time of filing the petition, the provision has been wrongly mentioned as Order 21 Rule 11 instead of Order 21 Rule 32 and 34 R/w Sec.151 of CPC and hence the DHR may be permitted to rectify the same as it is very much necessary and the said mistake is bonafide and if the present application is not allowed, the DHR would be put to great hardship and loss and among these grounds prays for the IA to be allowed.

4. The JDR has filed his objections to the said application contending that the present application is not maintainable and the property mentioned in the schedule, survey number, phode number, extent and boundaries are false and misleading and the format of the execution petition filed by the DHR itself is wrong and the JDR is the owner of 22 ½ Guntas only in Sy. No.27/2 of Buddareddyhalli Village, therefore, he is unable to execute any sale deed in favour of DHR with respect to the New Sy. No.27/4, 27/5 and 27/6 and the DHR has not approached the

Court with clean hands and among these grounds prays for the IA to be dismissed.

5. Heard the argument and perused all the materials on record.

6. It is pertinent to note that the execution petition has been filed U/o 21 Rule 11 of CPC and Order 21 Rule 11 deals with application for execution and it states that every application for execution of a decree, should be in writing, it should be signed and verified by the applicant and it shall contain tabular form of the particulars relating to number of the suit, name of the parties, date of the decree, whether any appeal has been preferred, whether any payment or other adjustments has been entered between the parties and several other particulars.

7. Order 21 Rule 34 deals that decree for execution of a document and is lays down the procedure to be followed when the DHR is seeking decree for execution of a document.

8. The application made by the DHR is under the correct provision as he has given all the particulars as required U/o 21 Rule 11(2). It cannot be stated that Order 21 Rule 11 specifically applies only to execution of decree for recovery of money as the provision itself clearly uses the phrase '*every application for execution must contain the following particulars.....*' and it does not specifically speak about money decree.

9. The Form No.6 of Appendix – E of CPC also gives the format for an application for execution of a decree and the said format also mentions Order 21 Rule 11 and it is the only format which is available which deals with an application for execution of a decree.

10. Therefore, under the circumstances, it is clear that the **provision mentioned by the DHR is correct and proper** and therefore, there is no need for the DHR to amend the provision as sought. Hence the application is dismissed as infructuous.

Call on :

Addl. Civil Judge and JMFC.,
Pavagada.