

IN THE COURT OF THE CIVIL JUDGE, KUSHALNAGAR

**Present: Smt.Chaithra L B.B.M., L.L.B.,
Civil Judge and JMFC.,
Kushalnagar.**

Dated this the 17th day of December 2025

Ex.22/2024

Sri Madhusudhan : Decree Holder

(By Sri P.K Ganapathy, Advocate)

Vs.

Sri Radhakrishna : Judgement Debtor

(By Sri K.S. Ragavendra, Advocate)

PARTIES to I.A. NO.V

Sri Madhusudhan : Applicants / DHR

V/S

Sri Radhakrishna : Opponents/JDRs

ORDER ON I.A.NO V

1. The Court is called upon to decide an application filed under Section 151 of the Code of Civil Procedure, in which it is prayed that the Kushalnagar Town Police be directed to extend assistance to the Court Amin for executing the arrest warrant and for ensuring that the Judgment Debtor (JDR) is produced before the Court.

2. In the affidavit accompanying the application, it is averred that a petition has been filed against the Judgment Debtor (JDR) for committing default and for violation of the terms of the award passed by this Court in C.C. No. 478/2022. Pursuant to the orders of this Court, the Court Amin proceeded to execute the arrest warrant after confirming the location of the JDR. At the time of execution, the Court

Amin requested the JDR to accompany him in compliance with the Court order. However, it is reported by the Court Amin that the JDR escaped from his custody during the execution of the arrest warrant. Consequently, the Court Amin sought police assistance for the effective execution of the arrest warrant. Therefore, it is just and necessary to provide police assistance to the Court Amin, as required, to execute the arrest warrant against the JDR. Hence, the present application.

3. In response to the said execution petition and the present application, the Judgment Debtor has filed objections contending that the Decree Holder/Applicant (DHR) is not required to file such an application. It is further contended that under execution proceedings, the law is specific inasmuch as when payments are being made at regular intervals, the DHR cannot insist upon arrest, as such action would be against the fundamental constitutional rights of a person, particularly the right to personal liberty. It is contended that the proper course available under law is first to seek attachment of movable properties, and if no movable properties are available, then to proceed with attachment of immovable properties. Only when no other alternative remedy is available, arrest can be sought as a last resort. Even for seeking arrest, an enquiry is required to be conducted by the Court to ascertain the means of the Judgment Debtor, by recording evidence on oath. The Judgment Debtor contends that the DHR has not followed any of the established procedures and has directly sought arrest, thereby violating the constitutional rights of the Judgment Debtor. On these grounds, it is prayed that the present application be dismissed with costs.

4. Heard both side. Perused the materials on record.

5. On the basis of said pleadings, the following points arise for consideration ;

1. Whether applicant has made out sufficient grounds to allow this application under section 151 of the Code of Civil Procedure ?

2. What order?

6. Finding on the above points are as follows;

Point No.1:- In the Affirmative

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

REASONS

7. It court be seen from the case records as well as order sheet that the Decree Holder (DHR) initially sought execution of the decree by attachment of movable property. Accordingly, a car was attached; however, it was found that the said car did not belong to the Judgment Debtor (JDR) and therefore the attachment was forthwith raised. Thereafter, the DHR also attempted execution through attachment and sale of immovable property. Though the immovable property was attached, the encumbrance certificate obtained by this Court disclosed that the said property was already burdened with encumbrances exceeding ₹50,00,000/-, rendering such mode of execution ineffective. Thus, it is clear that the DHR has exhausted the ordinary modes of execution available under law.

8. Subsequently, on the oral submission of the DHR, this Court issued an arrest notice to the JDR under Order XXI Rule 37 of the Code of Civil Procedure, calling upon him to appear before the Court and show cause as to why he should not be arrested in execution of the decree and to furnish security for his appearance. The said notice was duly served. However, despite service of notice, the JDR neither appeared before the Court nor showed cause nor furnished any

security as contemplated under Order XXI Rule 37 CPC. Therefore, in accordance with Section 51(c) read with Section 55 of the Code of Civil Procedure, this Court issued a warrant of arrest against the JDR.

9. Pursuant to the arrest warrant, the JDR was arrested and brought before this Court by the Bailiff on 10/11/2025. On that day, the JDR gave an undertaking before the Court that he would settle the dispute and pay the decretal amount. On recording his submission and with the consent of the DHR, the JDR was released. However, thereafter the JDR failed to honour his undertaking and did not settle the decretal amount as promised.

10. Consequently, once again an arrest warrant was issued. During execution of the said arrest warrant, as per the Bailiff report, the JDR absconded from the custody of the Court Amin, clearly attempting to evade the process of law and frustrate execution of the decree. Despite repeated opportunities granted by this Court, the JDR has paid only ₹14,00,000/- out of the total decretal amount of ₹54,83,650/-, which is far short of his obligation. Though the JDR contends that he has sufficient means to pay the balance amount, he has not furnished any particulars or proof of such means before this Court.

11. The procedure followed by this Court is strictly in accordance with law and does not in any manner curtail the personal liberty of the JDR arbitrarily. The safeguards provided under Sections 51 and 55 of the Code of Civil Procedure and Order XXI Rule 37 CPC have been duly complied with by issuing notice and granting sufficient opportunity to the JDR. Further, as per Rule 220(2) of the Karnataka Civil Rules of Practice, police assistance can be granted for execution of court processes whenever such assistance is found necessary.

12. Considering the conduct of the JDR in repeatedly defaulting in payment, failing to furnish security, absconding during

execution of arrest warrant, unsuccessful execution through attachment of movable and immovable properties, and failure to disclose his means, this Court finds that grant of police assistance to the Court Amin is necessary for execution of the arrest warrant and for production of the JDR before this Court, in order to secure compliance with the decree. **Accordingly, this court answers point No.1 in the Affirmative.**

13. Point No.2: For the aforesaid reasons on point No.1, this court proceeds to pass the following order:

ORDER

The application filed under Section 151 of the Code of Civil Procedure is hereby **allowed**.

In exercise of the powers under Sections 51 and 55 of the Code of Civil Procedure read with Order XXI Rule 37(2) CPC and Rule 220(2) of the Karnataka Civil Rules of Practice, the Kushalnagar Town Police are directed to provide necessary police assistance to the Court Amin for execution of the arrest warrant against the Judgment Debtor (JDR) and to ensure that the JDR is secured and produced before this Court without delay.

The Court Amin is at liberty to seek police assistance as and when required for effective execution of the warrant if PF paid.

The Judgment Debtor is directed to comply with the decree forthwith. Failure to do so shall entail further coercive action as permissible under law.

(Dictated on line computer to the stenographer, computerized by him, corrected, then signed by me and pronounced in the open court on this the 17th day of December 2025 .)

Sd/xx
(Chaithra L)
Civil Judge & J.M.F.C
Kushalnagar