

ORDERS ON IA NO.I UNDER ORDER XXI RULE 54 of CPC

The DHR filed this application under Order XXI Rule 54 of CPC to pass an order for attachment of immovable property of JDR no.1 and prohibiting from alienating or creating charge over the said property.

2. In support of this IA the Manager of DHR Sahakari Niyamita has sworn to an affidavit stating the JDRs have not paid award amount after passing award and hence this execution petition is filed. The JDRs are having sufficient means to pay the award amount and to satisfy the award. However, they are not paying the decree amount in order to defeat the fruits of decree and to cause delay. The JDR no.1 is the owner of land bearing sy.no.293/2 measuring 1-03-0 of Hilluru village, Ankola taluk. The market value of said land is more than Rs.15,00,000/- lakh which is free from encumbrance. But DHR created charge over the said property. Now JDR no.1 is trying to alienate the said property with intention to defeat the fruits of decree. If the above property is not attached, the JDR no.1 may alienate the said property. In case the properties is not attached, the DHR will put to great loss and hardship. And on the other hand JDR no.1 will not be prejudiced. Hence this application is filed.

3. The JDR no.1 has not filed objection.

4. Heard the learned counsel for both the sides and perused the records.

5. The points that arise for my consideration as under:

1. Whether the DHR made out ground to attach the property of JDR no.1 as prayed for ?
2. What order ?

6. My answers on the above points is as under:

Point No.1 : In the Affirmative

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

REASON:

7. **Point No.1:** The DHR filed this petition for the recovery award amount of Rs.5,80,338/- from JDR. The JDR no.1 to 3 appeared through their advocates. The DHR in the affidavit stated that the JDRs have not paid award amount after passing award and hence this execution petition is filed. The JDRs are having sufficient means to pay the award amount and to satisfy the award. However, they are not paying the decree amount in order to defeat the fruits of decree and to cause delay. The JDR no.1 is the owner of land bearing sy.no.293/2 measuring 1-03-0 of Hilluru village, Ankola taluk. The market value of said land is more than Rs.15,00,000/-

lakh which is free from encumbrance. But DHR created charge over the said property. Now JDR no.1 is trying to alienate the said property with intention to defeat the fruits of decree. If the above property is not attached, the JDR no.1 may alienate the said property.

8. The JDRs have not paid any amount before this court towards the award amount. Moreover they have not produced any document to show that they have paid entire award amount or partial amount to the DHR directly. The DHR produced RTC extract and encumbrance certificate of land bearing sy.no.293/2 measuring 1-03-0 of Hilluru village, Ankola taluk. They show that the said land is standing in the name of JDR no.1 and there is no encumbrance except the encumbrance of DHR Sahakara Niyamita. As per affidavit averments of DHR, the JDR is trying to alienate or create charge over the said property. Hence it is very clear that the JDR is about to dispose of the said property to defeat the fruits of decree. In these circumstances, I am of the considered opinion that the DHR is made out ground to attach the said property sy.no.293/2 measuring 1-03-0 of Hilluru village, Ankola taluk, by an order prohibiting JDR no.1 from transferring or charging the property in any way. Consequently, I answer Point No.1 in the affirmative.

9. **Point No.2:** In view of the above findings on point no.1, I proceed to pass following:

ORDER

IA No.1 under Order XXI Rule 54 of CPC filed by DHR is allowed as under:

The land bearing sy.no.293/2 measuring 1-03-0 of Hilluru village, Ankola taluk is attached by an order prohibiting JDR no.1 from transferring or charging the said property in any way.

Senior Civil Judge, Ankola.