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**IN THE COURT OF CIVIL JUDGE AND J.M.F.C.,**  
**DANDELI**

**Ex. Pet. No. 7/2009**

**The Haliyal Urban Co-op Bank Ltd**  
**Haliyal (U.K.)**

**... Decree holder**

**-V/s-**

**Shri Mansur Khatalab Jalali**  
**And others**

**.... Judgment debtors**

**Parties to IA No. VIII**

**Smt. Bibijan W/o Farooq Maldar**  
 R/o: Maruti Nagar, Dandeli

**...Applicant**

**-V/s-**

**The Haliyal Urban Co-op Bank Ltd**  
**Haliyal (U.K)**

**...Opponent**

**ORDERS ON APPLICATION UNDER ORDER 21 RULE 97**

**R/W SEC 151 OF CPC.**

The present application has been filed by proposed Jdr No.4 contending that, Jdr No.3-Shri Khatalab Rajesab Jalali

has occupied the Dandeli CMC house property bearing it's CMC No. IB/1067 located in Maruti Nagar, Dandeli. Since, applicant was houseless, the Jdr No.3 has agreed to sell the said house for a consideration amount of Rs. 1,75,000/- by entering into an agreement of sale dated 25-01-2011 and handed over the possession of the said house to him by receiving the entire sale consideration amount by virtue of his actual possession.

**2.** The CMC Dandeli being the owner of the said house has recorded his name as occupier in it's property register pertaining to the house for the year 2014-15 and collecting house tax from him. Hence, prayed to allow the application.

**3.** To which Dhr has filed objections contending that, the applicant has not approached the Hon'ble court with clean hands and is not at all entitled for any of the reliefs prayed for. And stated that, the Jdr No.3 is the owner of residential house No. IB/1067 situated on plot No. E-20 Maruti Nagar, Dandeli. Same cannot be transferd or sold without the permission of the Government. The said property is allotted to JDr No.3 without permission of the concerned authority. The sale deed executed by Jdr No.3 infavour of the applicant is null and void by law. It is also false to state that applicant is in possession from 25-01-2011. The applicant has created some false and concocted documents with the help of the CMC Dandeli and filed this false application. Accordingly prayed to dismiss the application.

4. Heard arguments from both the sides.

**5. The following points would arise for my consideration.**

1. Whether the applicant has made grounds to allow the application ?

2. What Order ?

**6. My findings for the above points is as under:-**

**Point No.1:** In the Negative:

**Point No.2:** As per final order

for the following:

### **REASONS**

**7. Point No.1-** Admittedly, there was decree by co-operative society for recovery of Rs. 1,65,521/- along with cost of Rs. 1,470/- with 19% interest by selling the mortgage property or other movable or immovable property. During the course of petition, the Dhr has taken steps for attachment of immovable property of Jdr No.3. But, now the proposed Jdr No. 4 has come up with this application to implead herself as a party, as the Jdr No. 3 has sold his property to her. In the affidavit she herself has stated that Jdr No.3 has entered into agreement of sale dated 25-01-2011, wherein proposed Jdr No.4 has paid entire consideration amount of Rs. 1,75,000/-. Since then the proposed Jdr No. 4 is in the possession of petition property.

**8.** It is to be noted here that, as stated by the proposed Jdr No. 4 herself, only agreement of sale has been executed between Jdr No. 3 and her. No absolute sale deed has been executed. As such, it can be held that, there is no transfer of title from Jdr No.3 to proposed Jdr No. 4. Moreover, no any document has also been produced before the court for perusal. Hence, I come to a conclusion that the document produced by Dhr with respect to the property standing in the name of Jdr No.3 are well available for execution. Accordingly, I answer point No.1 in the negative.

**9. Point No.2:** For the reasons stated above, I consider that the proposed Jdr No. 4 is not necessary or proper party at all for the disposal of the petition. Hence, I proceed to pass the following:

**O R D E R**

Application filed by proposed  
Jdr No. 4 U/o 21 rule 97 of C.P.C.  
is hereby dismissed.

Issue attachment warrant of  
immovable property of Jdr No. 3.

Call on: 18-08-2023.

(Dictated to the stenographer directly on computer, typed by her, corrected by me and then pronounced in the open court on this the 11<sup>th</sup> day of August 2023).

