

Orders

Decree holder has filed this execution petition against the judgment debtors to execute the decree dated 01.04.2021 passed in SC No.7/2021 on the file of this Court for recovery of a sum of Rs.74,318/-. Since this execution petition is filed within two years of the date of decree, this Court was pleased to dispense with issuance of notice to show cause against the judgment debtors as per Order 21 Rule 22 of CPC and issued attachment warrant of movables of judgment debtors.

Since as per the report of the bailiff no valuables are found, this Court was pleased to issue arrest notice to the judgment debtors. Though the arrest notice issued to the judgment debtor No.2 was served to him, he has failed to appear before the Court. Thereafter, the matter has been posted for enquiry regarding the means of judgment debtor No.2.

In order to prove the means of the judgment debtor No.2, on 13.06.2023, the manager of the decree holder bank has been examined as PW1. In his affidavit by way of examination-in-chief, the PW1 has clearly sworn to the fact that the judgment debtors are having sufficient income to satisfy the decree under execution. Since the judgment debtors were absent and there was no representation on behalf of the judgment debtors, this Court was pleased to take the cross examination of PW1 by the judgment debtors and evidence of the judgment debtors as nil.

That on perusal of the entire materials on record, at this stage it appears that the judgment debtor No.2 is having sufficient means to satisfy the decree. Hence, issue arrest warrant against the judgment debtor No.2 subject to the payment of subsistence allowance and reissue arrest notice to the judgment debtor No.1 by 28.06.2023.

Senior Civil Judge
& Prl. J.M.F.C., Kumta.