

KAVN210007962015



**IN THE COURT OF CIVIL JUDGE & JMFC,
KUDLIGI**

Present: Smt. C. Mahalakshmi
B.A.L., L.L.M.

Civil Judge & JMFC, Kudligi

Exc.Petition. no.13/2015

Dated this 7th day March 2026

PETITIONER

Wazid Sab, S/o Tailor Imam Sab,
aged about 56 years, R/o
Hurulihal village, Kudligi taluk,
Ballari District.

(By Sri.T.K/N.N.P Adv.,)

Vs

RESPONDENT

1.Nevara Thippeswamy, S/o late.
Nevara Bheemappa, aged about 45
years,

2. Kotreshi S/o late. Rudraiah,
aged about 50 years,

Both are resident of Hurulihal
village, Kudligi taluk, Ballari
District.

(Jdr no.1 and 2 by Sri. S.B.K Adv.,)

ORDER ON MAIN PETITION

1. The petitioner has filed this instant execution
petition seeking to punish the JDR in civil prison or to

attach the properties of the JDR for disobeying the decree passed in O.S.no.87/1999 dated 17.04.2003.

2. The petitioner has stated that he had filed original suit for the relief of declaration and permanent injunction before this court and obtained decree on 17.04.2003 wherein the decree was that the plaintiff has got right over the suit schedule property and the defendant is restrained from interfering with the suit schedule property.

3. That the JDR had preferred an appeal before the Hon'ble Sr. Civil Judge, Kudligi which was dismissed. That the said appeal attained finality and binding on the JDR. But the JDRs have not obeyed the decree of this court. That the JDR no.1's mother by name Thippamma and others have filed a suit against the decree to declare the judgment and decree passed in favour of the DHR as not binding on them. That the suit filed by the JDR no.1's mother was dismissed on preliminary issue on the grounds of resjudicata.

4. That the JDRs are interfering with the DHR's possession over the suit schedule property. That the DHR has approached the Gudekote police and lodged complaint, but they have directed to DHR to obtain direction from the civil court to give protection to the DHR's possession over the suit schedule property. Hence, he prayed to detain the JDR in civil prison or attach the property of the Jdrs.

5. The respondent has appeared but did not file any objection to the main petition.

6. On the basis of petition and documents placed on record following points arise for my consideration.

1. Whether the Dhr has made out sufficient grounds that the Jdrs have violated the order judgment and decree passed by the court?

2. Whether the Dhr is entitled the relief as sought for?

3. What order?

7. Heard the arguments of learned counsel for the Dhr.

8. My findings on the above points are as under :

Point No.1 : Partly Affirmative.

Point No.2 : Partly Affirmative.

Point No.3 : As per final order for the following:-

REASONS

9. Point Nos.1 & 2 : For the facts and circumstances of the case is concerned, these two points are interlinked and they are taken up together for common discussion.

10. It is the execution petition for sending the Jdrs as civil prison and to attach and sell the immovable properties of them. According to the Dhr, he filed O.S.no.87/1999 before this court against Jdrs. The said suit has been decreed on 17.04.2003. Furthermore, after passing of judgment and decree by this court, the present Jdrs have preferred the regular appeal before the Hon'ble Appellate court in R.A.No.30/2003. The said regular appeal has been dismissed. After the confirmation of the judgment and decree passed by the court, the Jdrs have continuously interfered with the petitioner's possession over the property

and violated the judgment and decree passed by the court. In order to restrain the illegal act of the Jdrs, Dhr filed the petition. To prove the contents of the petition, Dhr himself examined as PW.1. In his examination chief affidavit, he reiterated above stated averments. The Jdrs neither lead oral nor documentary evidence and also not cross-examined PW.1. At this juncture, the oral evidence of PW.1 is remained unchallenged and acceptable one.

11. The perusal of Ex.P-1 copy of decree in O.S.no.87/1999 clearly goes to show that the Dhr has filed suit for declaration and permanent injunction pertaining to the suit property against Jdr. The said suit has been decreed. Afterwards, as per Ex.P-2 is concerned, the present Jdrs have preferred appeal before the Hon'ble Sr. Civil Judge, Kudligi in R.A.No.30/2003. The said Regular appeal has been dismissed and confirmed the judgment passed by the court. As per the oral evidence of PW.1 is concerned, it clearly goes to show that now the Jdrs have continuously

interfering the possession of petition schedule property. Furthermore, as per the judgment and decree passed by the court is concerned, already the court has by way of passing judgment and decree restrained the Jdrs not to interfere the possession of Dhr over the suit property. In order to restrain the illegal act of the Jdrs, it is required to pass necessary order. Herein the Dhr has sought the relief of attach and sell the immovable properties of Jdrs. But, Dhr has not produced any documentary evidence regarding the properties owned by the Jdrs. In the absence of property details of Jdrs before the court, the court cannot pass any order regarding attachment and sell the immovable properties of Jdrs. But in order to protect the possession of Dhr and to enjoy the fruits of the decree, it is necessary to pass suitable order.

12. Herein the Dhr has sought the another relief to send the Jdrs in civil prison. On careful scrutinized the oral evidence of PW.1 is concerned, he deposed that the

Jdrs have interfering his possession, but there is no such serious allegation that in what mode the Jdrs have interfered with his possession over the property. At this juncture, in order to protect the possession of DHr and to enjoy the fruits of the decree, it is required to direct the Station house officer of jurisdictional police to protect the possession of Dhr and to prevent illegal act of the Jdrs. Accordingly, as per the above discussion is concerned, it direction to the SHO of jurisdictional police to protect the possession of Dhr over the suit schedule property and to take necessary action against the Jdr to prevent the illegal act of them is necessary. Accordingly, the Dhr has made out sufficient grounds and entitled the relief. Hence, I answered point no.1 & 2 in the **Partly Affirmative**.

13. Point No.3:- Having answered point nos.1 & 2 partly in the Affirmative, I proceed to pass the following :

ORDER

The execution petition filed by the
Dhr is hereby partly allowed.

The Station House Officer of Jurisdictional police is directed to protect the possession of Dhr over the suit schedule property and to prevent the illegal interference of Jdrs whenever there is interference.

Office is directed to issue intimation to the Station House Officer, Jurisdictional police accordingly.

(Directly dictated to stenographer on computer, typed and computerized by him, corrected and signed by me and then pronounced in the open Court on this the **7th day of March 2026**).

(Smt. C.Mahalakshmi)
Civil Judge & JMFC, Kudligi

ANNEXURE

List of witnesses examined on behalf of petitioner:

P.W.-1 : Wazid Sab.

List of exhibits marked on behalf of petitioner :

Ex.P-1 : Certified copy of order on preliminary issue in O.S.no.94/2008.

Ex.P-2 : Certified copy of plaint in O.S.no.87/1999.

Ex.P-3 : Certified copy of written statement in O.S.no.87/1999.

Ex.P-4 : Certified copy of issues in O.S.no.87/1999.

- Ex.P-5 and 6 : Certified copies of judgment and decree in O.S.no.87/1999.
- Ex.P-7 : Certified copy of deposition in O.S.no.94/2008.
- Ex.P-8 : Certified copy of issues in O.S.no.94/2008.
- Ex.P-9 : Certified copy of plaint in O.S.S.no.94/2008.
- Ex.P-10 : Certified copy of office copy of plaint in O.S.no.94/2008.

List of witnesses examined marked on behalf of respondent:

NIL

List of documents marked on behalf of respondent:

NIL

(Smt.C.Mahalakshmi)

Civil Judge and JMFC, Kudligi