

KAVP310087922022



Presented on : 24-11-2022

Registered on : 20-03-2023

Decided on : 09-03-2026

**IN THE COURT OF I ADDITIONAL CIVIL JUDGE & JMFC,
INDI**

**Present: SHREE VIKAS DALAWAI
B.A., LL.B.,
I Addl.Civil Judge & JMFC,
Indi.**

Dated this 09th day of March, 2026

E.P.No.349/2023

Decree holder :

- 1. CANARA BANK (E-Syndicate Bank)**
Branch Chadachan,
R/by its Branch Chief Manager
Smt. Shailaja W/o. Anand Hirermath,
Age: 45 years, Occ: Sr. Manager,
R/o.Chadachan, Tq: Chadachan, Dist Vijayapur.
(By Pleader Sri.S.V.K.)

V/s

Judgment debtor:

1. Sri. Ramesh S/o. Dhanappa Walikar,
Age: Major, Occ: Agril.,
2. Sri. Mahadev Shivaraya Biradar
Age: Major, Occ: Agril.,
Both R/o. Hattalli, Tq: Indi, Dist: Vijayapur.

(Absent)

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ORDER

1. This execution petition is filed by the branch Manager, Canara Bank (E-Syndicate Bank), (Herein after referred as decree holder against the J.Dr.) for recovery of loan amount in view of the certificate issued by the prescribed officer under Sec.12 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act 1974 (Herein after referred to as the Act).
- 2 After filing the petition, the question would arise before this court about jurisdiction of this court to entertain this EP before this court.
3. Heard the counsel for decree holder and perused the records.
4. For having heard the counsel for decree holder and for having regards to the materials available on record, following point would arise for consideration:
 1. Whether the decree holder make out a case that, this court is having jurisdiction to

execute the certificate issued by the prescribed officer under the Act?

2. What order?

5. My findings to the above points are as under:

Point No.1 : In the Negative
Point No.2 : As per the final order,
for the following:

REASONS

6. **Point No.1:** This execution petition is filed by the decree holder for execution of the certificate issued by the prescribed officer authorized under Sec.12 the Act. The learned counsel for the decree holder vehemently argued that the order has been passed by the Assistant Registrar Co. Operative Society in Form No.1 as per Sec.12 of the Act. The order passed by the prescribed officer under Sec.12 of the Act is having force of award and it is deemed decree of civil court as per 101 (1) (a) (b) of Karnataka Co. Operative Societies Act. As such, this court is having jurisdiction to execute the award.

7. For considering the argument advanced by the counsel for decree holder, it worth to refer the Act and Rules made

there under. The statement, object and reasons for the Act is to resolve the difficulties which credit agencies are facing in recovering the loan. In the statement, objects and reasons of the Act, it is mentioned hereunder;

“..... The difficulties which credit agencies may have in recovering the loans and other operational difficulties which they may have to face or envisaged and sought to be removed. To facilitate prompt recovery of dues without having to State Government is sought to be vested with the powers to prescribed an official who shall have authority to issue a certificate for recovery of dues as arrears of land revenue. Credit agencies have been empowered to bring properties to sale and also to purchase the property if there are not bidders at auctions conducted by them whenever they are required to foreclose mortgages of property executed in their favour.....” (underline for emphasis)

8. The Act was amended in the year 1984 and clause 5 has been amended and inserted the provision for recovery of dues as arrears of land revenue from the Co-Obligant and

the sureties of the agriculturists and their representative. A perusal of the objects and reasons of the Act, it discloses that, a separate procedure is made applicable to recovery of dues through the order of prescribed officer as a land revenue, appointed under Rule 6 of Rules made under the Act. As per the Act, no doubt, the decree holder is the credit agency as defined under Sec.2(e).

9. Now coming to the procedure for the recovery of dues by the credit agencies. As per Chapter III of the Act, the mode of recovery of dues by the credit agencies is mentioned. As per Sec.11, the credit agency can recover the dues by attachment and sale of mortgaged property through a civil court. As per Sec.12 of the Act, the credit agency can recover the due on the bases of a certificate issued by the prescribed officer as if an arrears of land revenue. In this case, the decree holder chose to recover the dues by exhausting the remedy available under Sec.12. He applied to the prescribed officer appointed under Rule 6 of the Karnataka Agricultural Credit Operations and

Miscellaneous Provisions Rules. As per this rule, the Assistant Register Co-Operative Society, Indi was appointed and he issued the certificate under Sec.12 of the Act, authorizing the credit agency i.e., the decree holder herein to recover the dues from the agriculturist as if an arrears of land revenue. This fact is categorically mentioned in the certificate issued by the prescribed officer. No doubt, as per Sec.101 of Karnataka Co-Operative Societies Act, the award passed by the Registrar or any authorized person is deemed to be a decree of a civil court and shall be executed in the same manner as if a decree of such court. Sec.101 of Karnataka Co-Operative Societies Act, by initiating proceeding under Sec.69, 99, 71, 74, 105 to 108 are dealing with surcharge, enforcement of charge, power of liquidator and others in the proceedings of the Co-Operative Society. If the arbitrator is appointed by the Registrar of the Co-Operative Society and he passed the award or issued certificate is having force of decree of civil court. It is mentioned in the Act itself. But,

in the case at hand, the Act is not mentioned about what is force of certificated under Sec.12. The Act is dealing with the recovery of dues from the agriculturists separate procedure is prescribed under Sec.12 and as per Sec.2 (12) the certificate issued by prescribed authority is final and conclusive as to arrears of due. The arrears shall be recoverable as if it were an arrears of land revenue. The authority to recover the arrears of land revenue is the Deputy Commissioner as per the Karnataka Land Revenue Act by various modes. When the Deputy Commissioner is authorized to recover the dues as if an arrears of land revenue, then, execution of the order and the certificate issued under Sec.12 of the Act before this court does not arises. For recovering the land revenue this court is not having jurisdiction. The credit agency has to approach to the competent forum to recover the due. Further, as per Sec.3 of the Revenue Recovery Act of 1890, any person is makes any default in payment of loan or advance of any installments or having become liable under the conditions

of the grant to refund the grant or otherwise fails to comply the terms, the collector on receiving the certificate shall proceed to recover the amounts stated therein as an arrears of land revenue. No suit for recovery of any sum due shall lie in the civil court against any person referred to that is agriculturist. The certificate which is produced by the Dhr., is also discloses that it was addressed to the Deputy Commission. Merely the certificate issued by the Assistant Registrar Co-Op Societies appointed under Rule 6, it will not take the effect of decree or award. Therefore, the judgment relied upon by the counsel decree holder is also not helpful to him to support his argument. Under such circumstances, this court is of the considered opinion that the certificate issued by the prescribed authority under Sec.12 of the Act is not having any force of decree or award. It is only the certificate authorizing to recover the dues as if a land revenue. Accordingly Point No.1 is answered in the 'Negative'.

10. **POINT No.2**:-In view of the reasons assigned above, I proceed to pass following

ORDER

The execution petition filed by the decree holder/credit agency is hereby dismissed reserving the right to approach before the competent forum for recovery of dues.

Accordingly, case is closed.

(Dictated to stenographer directly on computer, then corrected and pronounced by me in the open Court on this the 09th day of March, 2026)

**(VIKAS DALAWAI),
I Addl.Civil Judge & JMFC,
Indi.**