

MHBI160011372019



M.C.A.No.107/2019

Julekha Vs. Sirajkhan

ORDER BELOW EXH. NO. 79

Perused application and say. Heard both the sides. Applicant prayed for issuing the arrest warrant for recovery of the amount due of Rs.1,87,000/-. The learned advocate for the opponent has given their say behind the back of the application and prayed for rejection of application.

2. Applicant submitted that, the opponent intentionally not paying the amount due. Hence, it is necessary to issue the arrest warrant for the recovery of the same.

3. Per contra, the learned advocate for the opponent submitted that, opponent is continuously ill and he has suffering from the cancer disease. Hence, he is not able to pay the amount due today. Hence, prayed for rejection of the application.

4. The applicant has filed the present application for recovery of the amount due. On perusal of application it reveals that the applicant has claimed for issuing the arrest warrant for the amount due of Rs.1,87,000/-. On perusal of say filed by the learned advocate for the opponent it nowhere reveals that it is the case of the opponent that the said amount is not due with the opponent. The learned advocate for the opponent has taken the defence of that the opponent was consistently ill and suffering from the cancer disease. The present application is for the recovery in respect of Cri.M.A.No.26/2014. That application

was decided on the merit. Hence, the defence taken by the opponent at this stage is not tenable. It is not the case of the learned advocate for the opponent that, there is stay to the present proceeding. The learned advocate for the opponent has not taken a ground of having the stay to the present proceeding in their say. The present matter is pending for more than 04 years. The applicant orally submitted that she is facing the starvation. On perusal of record it reveals that several and sufficient opportunity already given to the opponent to deposit the amount due. Hence, in such circumstances the final remedy needs to be taken into consideration. Hence, I pass the following order:

ORDER

1. Application is allowed.
2. Issue N.B.W. against the opponent for the amount due of Rs.1,87,000/-.
3. Parties to take note accordingly.
4. C.C. to comply accordingly.

Date:- 03/07/2023

(A.T.Mangire)
Judicial Magistrate First Class
Shirur Kasar.

"I affirm that the contents of this PDF file are word to word as per original Judgment/order".

Sd/-
[P.B. Kusumkar]
Stenographer Grade-3

Dictated on : 03/07/2023

Transcribed on : 03/07/2023

Checked & signed on : 03/07/2023