



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.934/2019 (GM-CPC)

BETWEEN:

SRI. H.G. BASAVANAGOWDA
SON OF ESHWARAPPA
AGED ABOUT 60 YEARS
RESIDING AT T B CIRCLE
DEVANAYAKANAHALLI VILLAGE
HONNALI TOWN
DAVANAGERE DISTRICT-577217.

...PETITIONER

(BY SMT. B.S. YASHASWINI AND
SMT. M.V. NAVYASHREE, ADVS., FOR
SRI. P.M. SIDDAMALLAPPA, ADV.,)

AND:

SRI. B.S. MANJUNATHA SHETTY
SON OF SHIVARAMA SHETTY
AGED ABOUT 62 YEARS
R/AT. KAMMARAGATTA VILLAGE
HONNALI TALUK
DAVANAGERE DISTRICT-577217

...RESPONDENT

(BY SRI. CHANDRAPRABHA T.S. ADV.,)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE IMPUGNED ORDERS PASSED BY THE TRIAL COURT DATED 22.06.2018 AND IN FURTHERANCE OF IT ORDER TO ISSUE SALE PROCLAMATION, SPOT SALE IS FIXED ON 20.12.2018 AND COURT SALE FIXED ON 04.01.2019 AS PER ANNEX-D PASSED BY THE LEARNED ADDITIONAL CIVIL JUDGE AND JMFC, HONNALI IN EX.NO.24/2007 & ETC.



THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This petition is filed challenging the order dated 22.06.2018 passed on I.A. filed in Ex.No.24/2007 by the Additional Civil Judge and JMFC, Honnali, (for short, ***'the trial Court'***).

2. Heard Smt.B.S.Yashaswini and Smt.M.V.Navyashree, learned counsels for Sri.P.M.Siddamallappa, learned counsel for the petitioner and Sri.Chandrababha T.S., learned counsel for the respondent.

3. The respondent has filed a suit in O.S.No.180/2003 for recovery of money, the suit came to be decreed on 24.10.2005. Thereafter, the respondent filed Execution Case in Ex.No.24/2007 seeking to enforce the decree. The execution petition indicates that the dues are Rs.3,35,752/-. The petition averments indicate that



the petitioner-judgment debtor, on various dates from 17.07.2012 to 10.12.2018 has paid Rs.2,70,500/- and it was also stated that they would pay remaining amount of Rs.65,252/-. It is also contented that later the petitioner has deposited Rs.60,000/- before the trial Court on 24.09.2019. It is to be noticed that the respondent-decree holder filed an application under Order XXI Rule 54 of CPC seeking to attach the immovable property described in the application. The said application was opposed by the petitioner-judgment debtor by stating that they would make the payment if reasonable time is granted. The trial Court, considering the application as well as the objection, allowed the said application by attaching the property. It is to be noticed that the application filed by the respondent-decree holder does not indicate the dues as on the date of filing of the application and the trial Court has also not considered the said aspect and proceeded to attach the property.



4. This Court does not find any error in attaching the property of the petitioner-judgment debtor as he has successfully evaded the payment and partly made some payment; however, the same is required to be considered only after ascertaining the actual dues to be payable to the respondent-decree holder. Hence, I am of the considered view that the trial Court is required to reconsider the application filed by the respondent-decree holder seeking attachment of the immovable property after finding out the actual dues payable by the petitioner to the respondent herein. Hence, the order of attachment remains in force till the trial Court considers the application on merits afresh after determining the actual dues payable by the judgment debtor to the decree holder.

With the above observation, the writ petition is ***disposed of.***

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE