



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 109843 OF 2016 (GM-CPC)

BETWEEN:

SHRI SUDHINDRA
S/O RAGHAVENDRA LAXMESHWAR,
AGE: 57 YEARS, OCC: PRINTING PRESS BUSINESS,
R/O: 762/A, 6TH CROSS,
BHAGYA NAGAR, BELAGAVI.

... PETITIONER

(BY SRI. SHREEVATSA HEGDE, ADVOCATE)

AND:

1. SHRI RAM APTE,
AGE: 90 YEARS, OCC: ADVOCATE,
 2. SHRI AKSHAY S/O RAM APTE,
AGE: 52 YEARS, OCC: SERVICE,
- BOTH ARE R/O: 1668/3,
RAMLINGAKHIND GALLI,
BELAGAVI.

... RESPONDENTS

(BY SMT. NANDINI SOMAPUR, ADVOCATE FOR R1 AND R2;
R1 IS DECEASED)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 21.10.2016 PASSED IN E.P. NO.54/2013, BY I ADDITIONAL SENIOR CIVIL JUDGE, BELAGAVI, VIDE ANNEXURE-A AND ETC.,



THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

1. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent. Perused the material placed on record.

2. The present writ petition is filed by the judgment debtor calling in question the order dated 21.10.2016 passed in E.P. No.54/2013 by the learned I Additional Senior Civil Judge, Belagavi, issuing a sale warrant and directing auction of the petition schedule property. The auction was scheduled to be held on 15.11.2016. This Court, while entertaining the writ petition, had granted an interim order and, consequently, the execution proceedings have remained stalled for nearly a decade. The decree sought to be executed is one for refund of earnest money passed in a suit for specific performance on 25.08.2012.



3. This matter was taken up for consideration on earlier occasions. On the previous dates of hearing, the learned counsel appearing for the petitioner sought time to explore the possibility of an amicable settlement with the decree holder. It was also submitted that a substantial portion of the decretal amount had already been deposited before the Executing Court in favour of respondent No.1, the original decree holder, who has since passed away.

4. Today, the learned counsel appearing for the petitioner submits that respondent No.2, who is the son and surviving legal representative of the original decree holder, has expressed his willingness to receive the balance decretal amount in full and final satisfaction of the decree. A memo has also been placed on record furnishing the bank account particulars of respondent No.2 to facilitate payment. It is submitted that the petitioner is ready and willing to pay the balance decretal amount together with the accrued interest and seeks six weeks' time to comply with the decree.



5. Having regard to the subsequent developments and the consensus arrived at between the parties, this Court is of the view that no useful purpose would be served in keeping the present writ petition pending. Since the dispute now survives only with regard to payment of the balance decretal amount, the ends of justice would be met by granting the petitioner a final opportunity to satisfy the decree within a stipulated time.

6. It is also not in dispute that the auction notice fixing the sale on 15.11.2016 has long since become infructuous by efflux of time. Consequently, the sale warrant issued pursuant thereto has also lost its efficacy. Therefore, the impugned order, insofar as it relates to the proposed auction scheduled on 15.11.2016, no longer survives for consideration. However, while granting the petitioner one final opportunity to satisfy the decree, it is made clear that any further default shall entail immediate enforcement of the decree by the Executing Court without extending any further indulgence.



7. In order to balance the equities and having regard to the prolonged delay occasioned in execution of a decree passed as far back as in the year 2012, this Court deems it appropriate to saddle the petitioner with exemplary costs. For the forgoing reasons, this Court proceeds to pass the following:

ORDER

- (i) The writ petition is ***allowed***.
- (ii) The order dated 21.10.2016 passed in E.P. No.54/2013 by the learned I Additional Senior Civil Judge, Belagavi, vide Annexure-A, is quashed and set aside.
- (iii) The enforcement of the decree shall remain deferred for a period of six (6) weeks from the date of receipt of this order to enable the petitioner to pay the balance decretal amount together with accrued interest directly to respondent No.2.
- (iv) The petitioner shall also deposit costs of ₹25,000/- in the event balance amount with



accrued interest is not deposited before the
Executing Court within the aforesaid period.

- (v) In the event the petitioner fails to comply with the above directions within six (6) weeks, the Executing Court shall proceed to enforce the decree forthwith in accordance with law, without granting any further indulgence to the petitioner.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

VNP / CT: BCK
LIST NO.: 1 SL NO.: 1