



**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 29<sup>TH</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY**

**WRIT PETITION NO. 201822 OF 2026 (GM-CPC)**

**BETWEEN:**

UMESH S/O BINDURAO KULKARNI  
AGED ABOUT: MAJOR OCC: AGRICULTURE,  
R/O HALASANGI TQ. CHADACHAN  
DIST: VIJAYAPURA

...PETITIONER

(BY SRI YASHAS S. DIKSHIT, ADVOCATE)

**AND:**

INDI TALUK PRATHAMIK SAHAKARI KRUSHI AND  
GRAMEENA ABHIVRUDDHI BANK NIYAMIT, INDI  
REPRESENTED BY ITS MANAGER  
SRI H B SHRIKANT  
AGE 53 YEARS,  
R/O INDI TQ. INDI DIST: VIJAYAPURA

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, I) ISSUE THE WRIT OF CERTIORARI QUASHING THE ORDER DATED 15-02-2025 PASSED BY SENIOR CIVIL JUDGE AND JMFC, INDI IN EP NO.331/2023 WHICH IS AT ANNEXURE-C; II) PASS ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION AS THIS COURT MAY DEEM FIT TO GRANT IN THE CIRCUMSTANCES OF THE CASE.





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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

**ORAL ORDER**

Petitioner is before this Court under Article 227 of the Constitution of India with a prayer to quash the order dated 15.02.2025 passed by the Court of Senior Civil Judge and JMFC, Indi in E.P.No.331/2023.

2. Heard the learned counsel for the petitioner.

3. Respondent herein has filed execution petition in E.P.No.331/2023 before the Court of Senior Civil Judge at Indi for executing the award dated 08.07.2022 for a total sum of Rs.10,80,356/-. The Executing Court has issued arrest warrant as against the petitioner/judgment debtor vide order impugned dated 15.02.2025. Assailing the same, the petitioner is before this Court.

4. Learned counsel for the petitioner submits that Executing Court has not given any reasons for issuing



arrest warrant as against the petitioner. He submits that Executing Court has failed to comply the requirement of Section 51 of Code of Civil Procedure, 1908 [hereinafter referred to as the 'CPC'].

5. Section 51 of CPC provides for powers of the Court to enforce execution. The said power is subject to conditions and limitations as prescribed in the said section. Proviso to Section 51 of CPC carves an exception in the matter of executing the decree by detention. The said proviso clearly states that no warrant of arrest shall be issued without issuing notice to judgment debtor and granting an opportunity of showing cause why he should not be committed to prison.

6. In the present case, the order sheet of the Executing Court would go to show that from the year 2023 onwards, all kinds of efforts have been made by the Executing Court and the decree holder to secure the presence of the petitioner before the Court. The Executing



Court had initially issued notice to the petitioner and since he had not appeared before the Court inspite of service of notice, he was placed *exparte* and thereafter arrest notice was issued to the petitioner. Even after service of arrest notice, petitioner had not appeared before the Executing Court and therefore, arrest warrant was issued as against the petitioner vide the order impugned dated 15.02.2025. Since the arrest warrant could not be served on the petitioner, subsequently on 15.11.2025 the Executing Court has issued arrest warrant with police protection. Inspite of the same, petitioner's presence could not be secured before the Executing Court and he is now before this Court assailing the order dated 15.02.2025 passed by the Executing Court.

7. Learned counsel for the petitioner has admittedly submitted that petitioner is an agriculturist and since he was not in his village, he could not respond to the notices served on him. He submits that petitioner is ready and willing to surrender before the Executing Court and



file necessary application before the said Court to recall the arrest warrant issued as against him. He submits that considering the background of the petitioner who is a rustic villager, a sympathetic view may be taken.

8. From the perusal of the order sheet maintained by the Executing Court, it is apparent that the Executing Court has proceeded against the petitioner in accordance with law. No error has been committed by the Executing Court in issuing arrest warrant as against the petitioner. Though the conduct of the petitioner does not warrant interference by this Court as against the order impugned, taking into consideration the submission made by the learned counsel for the petitioner that the petitioner is a rustic villager and agriculturist by avocation, I am of the opinion that if some protection is given to the petitioner for the limited purpose of providing him an opportunity to surrender before the Executing Court and make necessary application to recall the arrest warrant against him, the



same would serve the ends of justice. Accordingly, the following:

**ORDER**

The Writ Petition is ***disposed of*** reserving liberty to the petitioner to surrender before the Executing Court in E.P.No.331/2023 within three days from today and file necessary application before the said Court to recall the arrest warrant issued against him. Till then, the arrest warrant issued against the petitioner shall not be executed. However, if the petitioner does not surrender before the Trial Court within the aforesaid period, the protection extended by this Court in this order shall not enure to his benefit and the Executing Court is at liberty to proceed against the petitioner in accordance with law.

**Sd/-  
(S.VISHWAJITH SHETTY)  
JUDGE**

swk  
List No.: 1 Sl No.: 24