HC-KAR

NC: 2026:KHC-K:4481
WP No. 204806 of 2018

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.204806 OF 2018 (GM-CPC)

BETWEEN:

KARNATAKA STATE INDUSTRIAL INVESTMENT
AND DEVELOPMENT CORPORATION LTD.,
HAVING ITS REGISTERED OFFICE AT KHANIJA
BHAVAN,
NO.49, 4TH FLOOR, EAST WING, RACE COURSE
ROAD, BENGALURU-560001
REPRESENTED BY ITS.

…PETITIONER

(BY SRI. GANESH NAIK, ADVOCATE)

AND:

Digitally signed by NIZAMUDDIN JAMKHANDI
Location: HIGH COURT OF KARNATAKA

1. M/S NAVABHARATH OILS LTD.,
   PLOT NO.61, INDUSTRIAL AREA,
   POST BOX NO.349, RAICHUR

2. SRI. K.RAMA RAO S/O SEETHARAMAYYA,
   MAJOR, R/O AT PLOT NO.17,
   VENKATESH NAGAR, LINGASUGUR ROAD,
   RAICHUR.

3. SRI. S. RAMA RAO S/O VEERU RAJU,
   MAJOR, OCC: NIL, R/O H.NO.12-7-112,
   NEW MEDARWADA, OPPOSITE TO
   VARDHAMAN HIGH SCHOOL,
   RAICHUR-584102.

4. C H KESHAV RAO S/O VENKATA KRISHNA RAO,

MAJOR, OCC: NIL,
R/O NEW MEDARWADA BALLAN COMPOUND,
OPPOSITE VARDHAMAN HIGH SCHOOL,
RAICHUR-584102,
ALSO R/O : NEW MEDARWADA BALLAN COMPOUND,
OPPOSITE NO.H.NO.12-7-140(OLD),
12-7-245(NEW)
BEHIND SRI. SANGAMESHWARA POLY CLINIC,
NEAR RAICHUR DIAGNOSTICE CENTRE,
SIYATALAB, RAICHUR

…RESPONDENTS

(R1 TO R3 ARE SERVED;
BY SRI. SHIVANAND PATIL, ADVOCATE AND
SRI. VARUN PATIL, ADVOCATES FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT, ORDER OR DIRECTION IN NATURE OF CERTIORARI, QUASHING ANNEXURE-C, VIZ, ORDER DATED-31.10.2018 PASSED BY THE PRL. DISTRICT AND SESSIONS JUDGE, RAICHUR, REJECTING I.A.NO.III IN E.P.NO.181/2009, B) SUCH FURTHER OR OTHER RELEIFS BE GRANTED TO THE PETITIONERS TO WHICH THE PETITIONERS WOULD BE FOUND ENTITLED TO ON THE FACTS AND CIRCUMSTANCES OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

Petitioner seeks the following reliefs:

"a) Issue a writ, order or direction in nature of certiorari, quashing Annexure-C, viz, order dated-31.10.2018 passed by the Prl. District and Sessions Judge, Raichur, rejecting I.A.No.III in E.P.No.181/2009,

b) Such further or other releifs be granted to the petitioners to which the petitioner would be found entitled to on the facts and circumstances of the case"

2. Heard Learned counsel for the petitioner and learned counsel for respondent No.4 and perused the material on record.

3. Respondent Nos.1 to 3 having been served with notice of this petition have chosen to remain unrepresented and since no relief is sought for as against the respondent Nos.1 to 3, notice to them is dispensed with.

4. A perusal of the material on record will indicate that the petitioner is the decree holder in Execution Case EP No.181/2009 filed by it against the respondents-judgment debtors. In the said execution proceedings, petitioner filed an application IA No.3 under Order XXI Rule 54 r/w Section 151 of CPC seeking attachment of schedule 'A' and 'B' properties belonging to respondent No.4, who was arrayed as judgment debtor No.4 in the execution proceedings. The said application having been opposed by respondent No.4, now the Executing Court proceeded to pass the impugned order, rejecting I.A.No.3 by holding as under:

> "***ORDERS ON I.A.NO.3***
>
> *Applicant/decree holder has filed this application under Order 21 Rule 54 r/w.sec.151 of CPC to attach 'A' & 'B' schedule properties shown in the description of the property.*
>
> *2) Applicant/decree holder K.G. Ramesh S/o: K.V. Gangadharaiah has sworn to affidavit wherein*

he has stated that E.P. was filed for the recovery of the decree amount from the Judgment Debtors. The judgment debtors in spite of having sufficient means are not satisfying the decree & intentionally avoiding the payment of decreetal amount & delaying the matter. The judgment debtor No.4 is the absolute & exclusive owner in possession of the schedule described properties & he is trying to alienate the schedule properties in order to escape from his liability. If judgment debtor succeeds in alienating the schedule properties then in that event it is very difficult to recover the decree amount. Therefore, it is just & essential to attach the schedule described properties for enabling them to realize the fruits of the decree, hence prayed that attachment of immovable properties order be passed in the ends of justice.

3) In this case, though suit publication is taken against the judgment debtors 1 to 4, judgment debtors 1 to 3 remained absent & only judgment debtor No.4 appeared through V.S.K advocate. But on the date case is called for hearing on I.A.No.3 learned counsel for the judgment debtor No.4 remained absent, there is no representation.

4) Heard the arguments of learned counsel for the decree holder on I.A.No.3.

5) Now the following points arise for consideration in the disposal of the above application:

1) Whether the applicant/decree holder has made sufficient grounds to attach immovable properties shown in the schedule 'A' & 'B' of the application as prayed for?

2) What order?

6) My answer to the above points are as under:

Point No.1: In the "Negative"

Point No.2: As per final order for the following:

R E A S O N S

Point No.1:-

7) The decree holder K.S.I.I.D.C have obtained a decree against the judgment debtors 1 to 4 in Miscellaneous Case No.706/1996 on the file of 6th Additional City Civil Judge, Bengaluru City dated: 10.04.2001 & this execution is petition No.181/2009 is filed for the recovery of

Rs.33,07,84,248/- from the judgment debtors 1 to 4. Though in the petition it is mentioned that list of immovable properties would be produced in due course for which permission is herein sought but not produced any such documents till filing of the present I.A.No.3 on 28.05.2018. In the execution petition relief sought for attachment of sale of two immovable properties of judgment debtors to be shown by the decree holder or his agents or attachment & sale of schedule of immovable properties but not at all showed any schedule of either movable or immovable properties throughout till filing of the I.A.No.3. As there was no appeal preferred against the decree why such long time is taken for filing E.P. is again a question. No reason is forthcoming. As per the order sheet, from 2009 till filing of the I.A.No.3 on 25.05.2018 no steps were taken to attach the movable & immovable properties of the judgment debtors. Even to take steps to serve notice on the judgment debtors 1 to 4 such a long time was dragged by the decree holder though represented through counsel for the reasons best known to them. Ultimately by filing application under Order 5 Rule 20 (A) r/w.sec.151 CPC paper publication was taken against the judgment debtors 2 to 4 on 21.09.2017 & judgment debtors 1 to 3 remained absent & only judgment debtor No.4 appeared through his

advocate, that is a reason why decree holder respective Zonal Managers representing in this case for all these years since 2001 till 2018 failed to take action against the judgment debtors for the recovery of the decreetal amount such a huge amount to the tune of several crores of rupees has not been clarified to the satisfaction of the court. That is a reason this court has directed the present Zonal Manager to furnish details of all those Managers who had worked having responsibility to take care to assist the court in executing the decree against the judgment debtors, but no such efforts were made to furnish the details to justify their clear inaction & failure to take appropriate step in execution of the decree. It appears that some found foul is there & intentionally they allowed the judgment debtors for such a long long years without repaying the decree amount though they suffered a decree in the year 2001 itself. It is expected from the decree holder to take all possible steps by assisting the court whatever the mode that is available under law & they should be vigilant to safeguard the interest of K.S.I.I.D.C. But having gone through the records, it appears that for not taking steps sleeping over the matter for well over 18 years by the Officers of the K.S.I.I.D.C which amounts to failure on their part to take reasonable steps under law. They are expected to do

in discharge of their duty & same is not expected of & not pardonable. It is only when court has taken steps by cautioning decree holder to avoid dismissal of the application for want of taking proper steps present Manager through the advocate filed I.A.No.3 under Order 21 Rule 54 r/w.sec.151 CPC by producing list of 3 documents & sought for attachment of immovable properties stating that judgment debtor No.4 C.H. Keshav Rao is the owner & in possession of the schedule 'A' & 'B' properties & same be attached in execution of the decree.

8) I have gone through the documents furnished, certified copy of the sale deed dated: 16.11.2002 which shows that C.H. Keshav Rao purchased schedule item No.1 property for consideration from one Gururaj Joshi through registered sale deed. Likewise certified copy of the registered sale deed dated: 11.12.2003 shows that judgment debtor No.4 C.H. Keshav Rao purchased item No.2 property from its previous vendor situated at Siyatalab area, Raichur. In the schedule 'A' & 'B' very description of the properties mentioned in these two sale deeds are mentioned. Decree holder is expected to convince the court that as on the date of filing I.A.No.3 on 28.05.2018 said properties

are standing in the name of C.H. Keshav Rao & he is the owner & possessor of the same. But encumbrance certificates produced would go to show that petition item number 'A' schedule property was gifted in favour of wife of judgment debtor No.4 namely Nalinidevi dated: 14.05.2014 & again item No.2 property also gifted in favour of wife of the judgment debtor No.4 dated: 14.05.2014 & since then records are standing in the name of the wife of judgment Debtor No.4. That means as on the date of filing the application properties are not standing in the name of C.H. Keshav Rao judgment debtor No.4. Facts stated in the affidavit filed by the Zonal Manager that he is the absolute owner & possessor of the properties & he is trying to alienate the properties, in that event, it is very difficult to execute the decree against him cannot be appreciated at all. Under Order 21 Rule 54 CPC which provides for attachment of property in execution of a decree. As already observed, no pain is taken till filing of the I.A.No.3 to furnish any records of movable & immovable properties & they failed to get it attached. Even if now application is filed but from 14.05.2014 it was already part with by him & they are the properties standing in the name of wife of judgment debtor No.4 Smt.Nalinidevi by virtue of the gift deed executed.

9) Furthermore, when decree was obtained long back in the year 2001they should have taken proper care & they be vigilant in ascertaining the properties of the judgment debtors for the recovery of the dues in execution of a decree. These properties were purchased by judgment debtor No.4 C.H. Keshav Rao in the year 2002 & 2003 that is subsequent to the decree passed by 6th Additional City Civil Court, Bengaluru. Then why immediately decree holder has not taken pains to get it attached? Had it been attached well in time while it was standing in the name of C.H. Keshav Rao long back it would have been executed against him for the recovery of the decree amount. Deliberately & intentionally Zonal Managers of the K.S.I.I.D.C. have shown their lethargic act & sat silent shutting their eyes. Such irresponsible act showed by them allowed the judgment debtors to part with the properties long back, as there was no hindrance or any restraint orders passed by the court against them. Rule 54 of Order 21 is meant for safeguarding the right of a decree holder as well as judgment debtor by the notice judgment debtor is put on notice that his properties are attached & would sold notice he pays of his debt to the decree holder by passing prohibitory order in Form No.24 is required. Therefore, there was chance for them to

take action during 2002 & 2003 itself because by then already decree holder had taken a decree in their hands against the judgment debtors. Therefore, now I.A.No.3 is filed showing 'A' & 'B' properties by stating that properties belonged to judgment debtor No.4 C.H. Keshav Rao. But in fact properties are not at all standing in the name of C.H. Keshav Rao & since 14.05.2014 he is not owner & possessor of the same. As such under law no prohibitory order can be passed by this court in attaching the said immovable properties shown in the schedule 'A' & 'B'. No prohibitory order in Form No.24 can be passed as mandatorily required under Order 21 Rule 54 CPC and the application deserves to be dismissed. This court is compelled to observe that the Zonal Managers of the decree holder bank are solely responsible for the loss caused to the K.S.I.I.D.C which entails them to take necessary action against them. With this observation point No.1 is answered in the negative.

Point No.2:-

10) For the forgoing reasons I proceed to pass the following:-

O R D E R

The I.A.No.3 application filed under Order 21 Rule 54 r/w.sec.151 of CPC by the applicant/decree holder is hereby dismissed.

No order as to costs."

5. A perusal of the material on record will indicate that the Executing Court has correctly and properly considered and appreciated the material on record and has come to the correct conclusion that no valid or sufficient ground had been laid out by the petitioner to seek attachment of the properties of respondent No.4-JDR No.4.

6. Under these circumstances, I do not find any illegality or infirmity in the impugned order passed by the Executing Court, so as to warrant interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India, as per the judgments of Hon'ble Apex Court in the cases of ***Radhey Shyam and Ors v Chhabi Nath and Ors*** reported in ***(2015) 5 SCC 423,***

K.P. Natarajan and Ors. vs. Muthalammal and Ors reported in ***AIR 2021 SC 3443*** and ***Mohd. Ali v V. Jaya*** reported in ***(2022) 10 SCC 477.***

7. It is also relevant to state that the execution proceedings are pending before the Executing Court as on today. Accordingly, I do not find any merit in the petition and the same is hereby ***disposed of*** without interfering with the impugned order.

8. The Executing Court is directed to dispose of the execution proceedings as expeditiously as possible in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

NJ
LIST NO.: 2 SL NO.: 4
CT:SI