



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 6712 OF 2026 (GM-CPC)

BETWEEN:

MR. AJAY KUMAR
S/O. UNNIKRISHNAN NAIR
AGED ABOUT 56 YEARS
R/AT PAPULLI NEDUNGOTTOR
SHORNUR, PALAKAD
KERALA 679 121.

...PETITIONER

(BY SRI. S.RAJASHEKAR., ADVOCATE)

AND:

1. BHARAT CO-OPERATIVE BANK (MUMBAI) LTD.,
HAVING ITS REGISTERED OFFICE MOHAN TERRACE
FIRST FLOOR, 64/72, MODY STREET
FORT, MUMBAI - 400 001
CENTRAL OFFICE AT MARUTAGIRI
PLOT NO.13/A, SONAWALA ROAD
GOREGAON (EAST), MUMBAI - 400 0063
AND AMONGST OTHERS MOOBBIDRI (MANGALORE)
BRANCH, SITUATED AT VEENU SKY PLAZA
MOOBBIDRI, KARKALA ROAD, MOOBBIDRI
D.K DISTRICT - 574 227
REP. BY ITS BRANCH HEAD/REPRESENTATIVE.
2. M/S. ALLIED ENTERPRISES (PARTNERSHIP FIRM)
REP. BY ITS PARTNERS
(A) MRS. ZEENA ROOPA PINTO
(B) MR. JOHN SYLVESTER SALDHANA
SHOP NO.1-104/2, NEAR MANDОВI SHOWROOM
ADYAR, MANGALURU TALUK
D.K DISTRICT - 575 009.

Digitally signed by
DHANALAKSHMI
MURTHY

Location: HIGH
COURT OF
KARNATAKA



3. MRS. ZEENA ROOPA PINTO
W/O. MR. JOHN SYLVESTER SALDHANA
AGED ABOUT 50 YEARS
 4. MR. JOHN SYLVESTER SALDHANA
S/O. LATE MR. LOUIS SALDHANA
AGED ABOUT 59 YEARS
R3 AND R4 ARE R/AT FLAT NO.301
3RD FLOOR, EVERGREEN ENCLAVE APARTMENT
SANKYA GUDDA, BEJAI NEW ROAD
MANGALURU TALUK, D.K DISTRICT - 575 004
...RESPONDENTS
- (BY SRI. H.R SUNIL KUMAR., ADVOCATE FOR R1:
SERVICE OF NOTICE TO R2 TO R4 ARE DISPENSED WITH
V/O DATED: 02.03.2026)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE COMMON ORDER DATED 30.01.2026 PASSED ON IA II, IA NO. III AND IA NO. IV PASSED IN EX. CASE NO. 133/2025 PENDING ON THE FILE OF III ADDL. DISTRICT AND SESSIONS JUDGE MANGALURU VIDE ANNEXURE.A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. This writ petition is filed under Article 227 of the Constitution of India challenging the order dated 30.01.2026 passed on I.A.No.II filed under Order XXI Rule 54 read with Section 151 of CPC, I.A.No.III filed under



Order XXI Rule 97 to 101 read with Section 151 of CPC and I.A.No.IV filed under Section 151 of CPC by the III Additional District Judge, Mangaluru, D.K. (hereinafter referred to as 'Executing Court' for short) in Ex.C.No.133/2025, whereby, the Executing Court dismissed the said applications on the ground that the petitioner is not a title holder of the property and there was a contradiction in the sale consideration which is mentioned as Rs.65,00,000/- in the agreement, whereas in the affidavit annexed to the applications, it is stated as Rs.80,00,000/-.

2. Respondent No.1 herein i.e. the Decree Holder, filed an execution petition for executing a sum of Rs.68,80,268/-. During the pendency of the execution petition, the petitioner herein filed I.A.No.II under Order XXI Rule 54 read with Section 151 of CPC to attach the petition schedule property till the case is finally decided, I.A.No.III under Order XXI Rule 97 to 101 read with Section 151 of CPC to adjudicate into the claim of the



petitioner and I.A.No.IV under Section 151 of CPC to stay all further proceedings in the case until claim about the property is decided. The Executing Court by impugned order, dismissed the said applications on the ground that there was a contradiction in the sale consideration and that the petitioner is not the title holder of the property. Since the property stands in the name of Mrs.Zeena by way of a Release Deed dated 03.04.2017, the Executing Court has not conducted any enquiry before rejecting the said applications.

3. It is settled law that the Execution Court has to necessarily conduct an appropriate enquiry and thereafter dispose of the obstruction petition, in accordance with law.

4. The petitioner has also relied on the judgment of this Court in W.P.No.190/2026, disposed of on 12.01.2026. In similar circumstances, the Court has allowed the writ petition and the relevant paragraph, i.e., paragraph 7, is extracted.

"7. A perusal of the material on record including the impugned order will indicate that the Executing court



has failed to consider and appreciate the well settled position of law that when an application is filed by a third party - obstructor seeking to oppose the execution proceedings as well as an order of attachment passed in respect of a property claimed by him, ordinarily, the Executing court would necessarily have to conduct an appropriate enquiry and thereafter dispose of such obstruction petition in accordance with law, having regard to the fact that any order passed after enquiry would be a deemed decree within the meaning of Section 2(2) of CPC. In the instant case, the Executing court has undisputedly not conducted any enquiry on the obstruction petition / application filed by the petitioners and has summarily rejected the petition on the ground that the transaction between the petitioners and respondent Nos. 2 and 3 was a collusive transaction, which is incomplete and unregistered without providing sufficient and reasonable opportunity to the petitioners."

5. In the case on hand also, no enquiry has been conducted. Therefore, the impugned order dated 30.01.2026 passed by the Executing Court on I.A.Nos.II to IV vide Annexure-A is liable to be set aside. Hence, the following order is passed:



ORDER

- a) The writ petition is ***disposed of.***
- b) the impugned order dated 30.01.2026 passed by the Executing Court on I.A.Nos.II to IV vide Annexure-A is hereby set aside.
- c) The Executing Court is directed to reconsider I.A.Nos.II to IV, in accordance with law, within an outer limit of ten weeks from the date of receipt of certified copy of this order.
- d) Till the applications are disposed of, the auction of the property in dispute is stayed.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE