



CNR: KAHC010274032019

NC: 2026:KHC:53394
WP No. 49803 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 49803 OF 2019 (GM-CPC)

BETWEEN:

1. SMT SUJATHA
W/O LATE SRI SRINIVASAGOPAL
AGED ABOUT 59 YEARS
R/AT NO.82, 4TH MAIN ROAD
HEGGADENAGARA, BENGALURU-560 077.

...PETITIONER

(BY SRI. A.N. GIRIJESHA, ADVOCATE FOR
SRI. R B SADASIVAPPA, ADVOCATE)

AND:

1. SRI N RAVINDRANATH
S/O LATE SRI NEELAKANTA RAO
AGED ABOUT 79 YEARS
2. SRI SHARAVAN CHAVAN
S/O LATE SRI SURESH
AGED ABOUT 36 YEARS
3. SRI S SHWETHA CHAVAN
S/O LATE SRI SURESH
AGED ABOUT 33 YEARS

R1 TO R3 ARE R/AT NO.85
K R ROAD, NEXT TO BBUL JAIN VIDYALAYA
SHANKARPURAM
BENGALURU-560 004.

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4. SMT SAROJINI
W/O LATE SRI MURALIKRISHNA
AGED ABOUT 70 YEARS
R/AT SRIRAMAPURAM
BENGALURU-560 021

...RESPONDENTS

(BY SRI. RAJAGOPALA NAIDU, ADVOCATE FOR R1 TO R3)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED PRDOR DATED 23.09.2019 IN EX.2699/19 PASSED BY THE 7TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH.NO.19) ON 2 IAs FILED (1) U/S 151 OF CPC ANNEXURE-E AND (ii) SECTION 47 R/W ORDER 21 RULE 58 AND 97 OF CPC ANNEXURE-G AND J;AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition is filed by the judgment debtor assailing the order dated 23.09.2019 passed in Ex.P.No.2699/2019, whereby the application filed by the petitioner under Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC'), read with Section 47 and Order XXI Rules 58 and 97 of CPC, has been rejected.

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2. The petitioner has suffered an *ex parte* decree in O.S.No.6013/2018. In the execution proceedings, the petitioner questioned the very jurisdiction of the Court which passed the decree, contending that the said Court lacked pecuniary jurisdiction to entertain the suit, having regard to the fact that the monthly rent was only Rs.150/- and consequently, the annual rent was approximately Rs.1,800/-. The said objection raised by the petitioner has been rejected by the learned Executing Court.

3. Heard the learned counsel appearing for the petitioner and perused the order under challenge. It is not in dispute that, pursuant to the interim order granted by this Court, the execution proceedings have remained stalled since the year 2019.

4. This Court, therefore, put a specific query to the learned counsel appearing for the petitioner as to whether the *ex parte* decree passed in O.S.No.6013/2018 had been



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assailed by the petitioner. The learned counsel, fairly, submits that an application under Order IX Rule 13 of CPC., was filed seeking to set aside the *ex parte* decree. The said application came to be rejected and, against the said order, the petitioner has already availed the statutory remedy of appeal, which is stated to be pending consideration.

5. In view of the aforesaid undisputed position, this Court is of the considered view that the petitioner cannot be permitted to stall the execution proceedings merely by raising objections in the execution petition, particularly when the very decree sought to be executed continues to remain in force. Unless the *ex parte* decree is set aside or its operation is stayed by a competent Court in accordance with law, the decree-holder is entitled to seek its enforcement.

6. The petitioner's objection is plainly an attempt to introduce, at the stage of execution, a defence which was



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never pleaded or adjudicated in the suit. The petitioner did not file a written statement raising any objection to the jurisdiction of the Court, nor was any issue framed or tried in that regard. Such an objection, requiring examination of the pleadings, facts and legal defences available to the petitioner in the original proceedings, cannot be converted into a plea of inherent lack of jurisdiction merely by invoking Section 47 of CPC., The Executing Court is bound by the decree and cannot travel behind it or conduct a collateral trial on a defence which the petitioner chose not to raise before the court which passed the decree. The limited exception recognised in ***Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman, (1970) 1 SCC 670,*** applies only where the decree is a patent nullity for want of inherent subject-matter jurisdiction apparent on the face of the record. It does not extend to a debatable or merits-based objection which could, and ought to, have been raised by written statement and adjudicated in the suit.

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Accordingly, the writ petition, being devoid of merit, stands ***dismissed***.

The interim order, if any, stands vacated.

The Executing Court shall proceed with the execution petition in accordance with law, subject to any order that may be passed by the competent appellate Court in the proceedings arising out of the rejection of the petition under Order IX Rule 13 of CPC.,

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SACHIN SHANKAR MAGADUM
Verified

(SACHIN SHANKAR MAGADUM)
JUDGE