

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

CRP(CRP.Art.227) No. 12 of 2024

Khaidem Aiso Singh

Petitioner/s

Vrs.

Hijam Prabhabati Devi & anr.

Respondent/s

BEFORE
**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
(ORDER)**

30.10.2025

[1] Captioned 'Civil Revision Petition' ('CRP' for the sake of brevity) has been presented in this Court under Article 227 of the Constitution.

[2] In and vide the captioned CRP, 'an order dated 21.12.2023' made by an 'Execution Court i.e., Court of Civil Judge (Senior Division), Imphal West, Manipur' has been assailed ('impugned order' and 'said Execution Court' respectively for the sake of convenience and clarity).

[3] Factual matrix in a nutshell is that the CRP petitioner before this Court is decree holder qua a money decree made in Original(Money) Suit No. 12 of 2018 on the file of the Court of Civil Judge (Senior Division) Imphal West; that the CRP petitioner lodged execution petition against the judgment debtors to recover the money; that the execution case is, Execution Case No. 53 of 2019; that in the Execution Case, the CRP petitioner sought attachment of monthly pension of judgment debtor No. 2 (respondent No. 2 before this Court); that the Execution Court in and vide impugned order held that pension cannot be attached inter alia owing to Section 60(1)(g) of 'the Code of Civil Procedure, 1908' ('CPC' for the sake

of brevity) and Section 11 of the Pension Act, 1871; that assailing the impugned order, captioned CRP has been filed.

[4] Mr. S. Abung, learned counsel for CRP petitioner, very fairly submitted that pension per se cannot be attached in the light of Section 60(1)(g) of CPC and Section 11 of 'the Pension Act, 1871' ('said Act' for the sake of brevity). However, learned counsel placed reliance on the oft quoted **Jyoti Chit Fund** case being **Union of India Vs. Jyoti Chit Fund and Finance & ors.** reported in **1976 AIR 1163** for the proposition that pension cannot be attached but that is till it is actually paid to the government servant who is entitled to it on retirement. In other words i.e., to put it differently, burden of the song of the learned counsel for CRP petitioner is, pension, when in the hands of the judgment debtor, can be attached.

[5] Learned counsel also made a faint attempt to place reliance on a judgment rendered by a hon'ble Single Judge of the Punjab and Haryana High Court in **Ram Kanvar Vs. Ram Ricchhpal Banarsi Dass** reported in **(2003) AIR(Punjab) 38** to say that pension can be attached.

[6] This Court carefully considered the submissions of the learned counsel. The submissions, discussion on the same and dispositive reasoning qua the same rolled into one on each point is given by way of an adumbration infra:

(i) As regards the first point that pension in the hands of the judgment debtor can be attached, this Court finds that the prayer in the execution petition is not for attachment of moneys in the hands of respondent No. 2 but it is for attachment of monthly pension of respondent No. 2. To be noted, copy of the execution petition has not been annexed to the case file but this Court had the benefit of perusing the same as it was furnished to the Court by the learned counsel for CRP petitioner.

The most relevant part of the execution petition is Sl. No. 10 and the same reads as follows:

'10. Mode in which the : By attachment and sale of properties of
assistance of the court the defendant No. 2 or by attachment
is required. from the monthly pension of Respondent
No. 2.'

Therefore, this first point pales into insignificance.

(ii) As regards the next point turning on **Jyoti Chit Fund**, there can be no quarrel on the proposition but **Jyoti Chit Fund** talks about moneys in the hands of the judgment debtors. Whereas, as alluded to supra in the previous point the decree holder has sought attachment of pension per se and therefore **Jyoti Chit Fund** does not come to his aid.

(iii) The said Execution Court has relied on **Radhey Shyam Gupta v. Punjab National Bank** reported in **(2009) 1 SCC 376** for the proposition that moneys covered under Section 60(1)(g) of CPC cannot be attached and therefore the said Execution Court cannot be found fault with on this score as this is the obtaining position of law. To be noted, even in **Jyoti Chit Fund**, Hon'ble Supreme Court has made it clear that pension per se is not within the realm of attachment and it only made a distinction between pension per se and moneys in the hands of the pensioner. Therefore, the order of the said Execution Court does not warrant interference.

(iv) As regards **Ram Kanvar** case rendered by a hon'ble Single Judge of the Punjab and Haryana High Court, the same is dated 10.04.2002 but in **Ram Kanvar** case neither **Radhey Shyam** nor **Jyoti Chit Fund** has been considered. Therefore, this Court deems it appropriate to respectfully follow the ratio laid down

by Hon'ble Supreme Court and this Court has no hesitation in writing that **Ram Kanvar** does not advert to **Radhey Shyam** or **Jyoti Chit Fund** and therefore it does not come to the aid of the revision petitioner in the case on hand.

(v) As regards the prayers in the execution petition as would be evident from the extract and reproduction supra, the mode of attachment is twin. One is by attachment of sale of properties of defendant No. 2 and the other is by attachment of the monthly pension. The impugned order covers only one limb of the mode of attachment, namely attachment of monthly pension. As regards the attachment of the sale of the properties of defendant No. 2, the same has not been dealt with in the impugned order and this Court is informed that the execution petition is pending. To be noted, in the impugned order itself, the said execution Court has listed the execution petition for further hearing on 01.02.2024. It may not be necessary to go into what happened on 01.02.2024 or thereafter as learned counsel for CRP petitioner very fairly submits that the execution petition is pending and the same is being pursued by the decree holder/CRP petitioner.

[7] In the light of the narrative, discussion and the dispositive reasoning set out supra, this Court has no hesitation in coming to the conclusion that no interference qua impugned order of said Execution Court is warranted.

[8] However, this Court makes it clear that the execution petition can continue on its own merits and in accordance with law qua properties of defendant No. 2 and for that matter any moneys in the hands of defendant No. 2/judgment debtor No. 2, who is respondent No. 2 before this Court. Though obvious, for the purposes of specificity, it is clarified that it is open to the decree holder to file another execution petition seeking attachment in a suitable mode, and if such a course is

adopted by the decree holder, the said Execution Court shall consider the same on its own merit and in accordance with law untrammelled by instant order.

[9] Ergo, the sequitur is captioned CRP fails and the same is dismissed but with preservation of rights of the decree holder/CRP petitioner in the aforesaid manner and with the aforementioned observations. There shall be no order as to costs.

CHIEF JUSTICE

Indrajeet