

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.2652 OF 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondents.

2. The petitioner herein is the judgment debtor pursuant to a decree passed by the Court of I Additional Junior Civil Judge, Tanuku (for short, trial Court) in O.S.No.560 of 2009 dated 12.03.2013. The respondents, who are the decree holders, filed E.P.No.169 of 2013 in O.S.No.560 of 2009 seeking to sell the EP schedule moveable property belonging to the judgment debtor, and when an order was passed on 27.04.2015 in E.P.No.169 of 2013, attaching the EP schedule moveable property, the present Civil Revision Petition is filed.

3. The learned counsel for the petitioner submits that the moveable property, other than the motorcycle, are the tools on which the petitioner is eking out his livelihood and they cannot be sold pursuant to the execution of the decree, as it would be contrary to Section 60 of the Civil Procedure Code. The moveable property which is sought to be sold as follows:

“1. Yamaha (FZ5) motorcycle No.AP5CB 2952 - 25,000

2. Welding machine -1 - 8,000

3. Generators (10 KV) – two in number - 30,000

4. Tools and Machinery used for

Engineering works - 5,000

Total value as estimated by the D.H.R.S - 68,000

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4. A perusal of the EP schedule property shows that it consists of four items and so far as the motorcycle is concerned, the petitioner has no objection. With regard to the generators also, the petitioner states that they do not belong to him and they belong to the customers. The welding machine, tools and machinery used for engineering works are concerned, they required for the livelihood of the petitioner as an artisan and they should not be sold in pursuance of the interim order. The decretal amount is Rs.54,000/- and the EP was filed execution of the decree passed for the said amount.

5. In the circumstances, this Court is satisfied that the impugned order of the trial Court can be upheld to the extent of attachment of motorcycle and generators, provided that the generators are owned by the petitioner. In respect of the welding machine, tools and machinery used for engineering works, they should not be sold, as the petitioner is eking out his livelihood as an Artisan by using the same. The impugned order of the trial Court is modified to that extent.

6. In the result, the Civil Revision Petition is partly allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAMALINGESWARA RAO, J

Date: 05.11.2015

TJMR

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