

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.5722 of 2015

ORDER:

Heard Sri R.Siva Sai Swaroop, Learned Counsel for the petitioner, and Sri P.Durga Prasad, Learned Counsel for the 1st respondent-decree holder. This revision is preferred against the order passed by the Learned Additional Senior Civil Judge at Gajuwaka, in E.P.No.49 of 2014 in Dispute No.9 of 2012, dated 24.03.2015.

The 1st respondent herein filed an Execution Petition against judgment-debtors 1 to 5 for issuance of a warrant of attachment under Order 21 Rule 48 CPC. In the order under revision, the Court below noted that it is only judgment-debtor No.5 (the revision petitioner herein) who was contesting the petition; he had contended that he did not have sufficient means to pay the decretal amount; he filed his salary slips, a perusal of which showed that his gross salary was Rs.50,221.86 ps. and net pay after deductions was Rs.16,091/-; the judgment-debtor No.5 had stated that he was only receiving net salary of Rs.10,700/- per month which was not correct; even otherwise, on perusal of the deductions shown in the pay slip, the deductions were not Government deductions, or for any other permissible loans; the judgment-debtor No.5 had contended that he had obtained a personal loan, and had been paying Rs.5,300/- per month towards personal loan; this was his personal affair; and it could not be linked with the decretal amount. The Court below was satisfied that judgment-debtor No.5 was having sufficient means to pay the decretal amount; he was evading payment of the same; and, hence, the decree-holder was entitled to seek attachment of salary under Order 21 Rule 48 CPC. The petition was allowed and a warrant, under Order 21 Rule 48, was issued against judgment-debtors 1 to 5.

The only contention urged before this Court by Sri R. Siva Sai Swaroop, Learned Counsel for the petitioner-judgment-debtor No.5, is

that, as a result of the order under revision, the petitioner's entire salary is now being adjusted towards payment of the decretal amount, without even subjecting such attachment to the provisions of Section 60 CPC. On the other hand Sri P.Durga Prasad, Learned Counsel for 1st respondent-decree-holder, would contend that no material has been placed by the revision petitioner to show that his entire salary is being deducted.

While the submission urged, on behalf of the 1st respondent-decree-holder, by Sri P.Durga Prasad cannot be said to be without merit, the fact remains that any amount deducted from the revision petitioner's salary can only be in accordance with Section 60 CPC.

The order, under revision, is modified. The warrant issued under Order 21 Rule 48 CPC against the garnishee of judgment-debtors 1 to 5, and the deductions from the salary of the revision petitioner-judgment-debtor No.5, shall be made in accordance with the conditions stipulated in Section 60 CPC.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:31.12.2015.

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