

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.1191 of 2015

ORDER :

This Revision is filed under Section 151 Civil Procedure Code challenging the order dt.02.02.2015 in E.P.No.74 of 2014 in O.S.No.257 of 2010 on the file of Principal Senior Civil Judge, Chittoor.

2. The petitioners are judgment-debtors in the above suit.

3. The said suit had been filed for recovery of money by the respondent herein and was decreed on 28.03.2013.

4. The respondent then filed E.P.No.74 of 2014 for recovery of the said amount by attaching the salaries of petitioners, by entrusting salary attachment to the garnishee of the petitioners, viz., Mandal Educational Officer, Baireddipalli Village, Post and Mandal, Chittoor District.

5. The 1st petitioner filed a counter opposing the said E.P. He contended that he is getting only meagre income, that his salary had already been attached in another EP.No.15 of 2011 on the file of Additional Senior Civil Judge, Chittoor, and if his salary is again attached, it

would cause him mental agony and torture.

6. This counter was adopted by the 2nd petitioner.

7. By order dt.02.02.2015, the Court below allowed the said E.P. It directed the attachment of salary of 1st petitioner to the tune of Rs.9,400/- and that of 2nd petitioner to the tune of Rs.8,000/-, every month. It took into account the salary certificates of petitioners which indicated that the net salary of 1st petitioner was Rs.29,264/- and that of 2nd petitioner was Rs.25,051/-; and in view of Section 60 C.P.C., it held that it is reasonable to direct attachment to the tune of Rs.9,421/- from the monthly salary of 1st petitioner and Rs.8,017/- from the monthly salary of 2nd petitioner. It rejected the plea of petitioners that the said E.P. is filed only to harass them and observed that such a plea is only raised to escape the liability on them.

8. Challenging the same, the present Revision is filed.

9. The counsel for petitioners contended that after deductions, the net salary of 1st petitioner is only Rs.29,264/-, while that of 2nd petitioner is Rs.25,051/- and that since it is very meagre, there should not be any further deduction from the salaries of petitioners.

10. The salary certificates of petitioners have been filed along with the Revision which indicate that the gross salary of 1st petitioner is Rs.70,095/- and statutory deductions there from are Rs.17,931/- only. A further sum of Rs.22,900/- is being deducted towards amounts payable by 1st petitioner for discharge of a bank loan and by way of attachment in two other suits.

11. Likewise, in the case of 2nd petitioner, the gross salary is Rs.58,455/- out of which statutory deductions were Rs.14,104/- and a further sum of Rs.19,300/- were being deducted towards a bank loan recovery and by way of attachment in two other suits.

12. It is not permissible for either of petitioners to contend that their net salary should be taken into consideration and they should be exempted from further attachment.

13. As regards 1st petitioner, excluding the statutory deductions of Rs.17,931/- and the attachments under two other decrees amounting to Rs.9,900/-, the net salary would be Rs.70,095 (-) 17,931 (-) 9,900 = Rs.42,264/-. Applying Sec.60 CPC, and further deducting Rs.1,000/- and 2/3rd of the remainder, it leaves a balance of Rs.13,756/-, which is well below the amount of Rs.9,421/- fixed by the court below as a monthly recovery (by way of

attachment) from the salary of 1st petitioner.

14. Coming to the case of 2nd petitioner, after deducting the statutory deductions of Rs.14,104/- and the amounts attached in two other decrees amounting to Rs.9,300/-, it leaves a balance of Rs.35,051/-. From this amount, if a further deduction of Rs.1,000/- and 2/3rd of the remainder is made applying Sec.60 CPC, it leaves a balance of Rs.11,351/-, which is well above the amount of Rs.8,017/- directed to be attached every month.

15. Therefore, I am of the considered opinion that the plea of petitioners that no amount of their salary can be further attached in execution of the decree obtained by the respondent in O.S.No.257 of 2010, cannot be accepted.

16. I do not find any merit in the Revision and it is accordingly dismissed. No order as to costs.

17. Miscellaneous applications, pending if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-09-2015

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