

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION No.19746 of 2012

ORDER:

The instant Writ Petition is filed under Article 226 of the Constitution of India seeking *mandamus* to declare the action of respondent No.2 in not releasing the retirement benefits to the petitioner as provided under Section 60 of the Code of Civil Procedure, 1908 (for short, 'CPC'), as illegal, arbitrary and also opposed to principles of natural justice; and consequently, to direct the respondents to release the retirement benefits of the petitioner as provided under Section 60 CPC.

2. The petitioner's case is that he worked as Record Assistant in A.K.P. Municipal High School, Pithapuram, East Godavari District, and retired from service on 30.08.2008 and has been drawing pension of Rs.3,685/-. According to him, three civil cases are pending adjudication against him and the Additional Senior Civil Judge, Srikakulam passed a garnishee order directing respondent No.2 to release his pension as per Section 60 CPC. The petitioner produced the provisions of Section 60 CPC with relevant amendments made from time to time by the Amending Acts.

3. It is according to him, in I.A. No.348 of 2008 in O.S. No.266 of 2008 on the file of Additional Senior Civil

Judge, Srikakulam, a garnishee order was passed against respondent No.2 not to disburse the petition amount and in I.A. No.2127 of 2008 in O.S. No.684 of 2006 on the file of the Principal Junior Civil Judge, Rajahmundry, a conditional attachment was ordered directing respondent No.2 to withhold a sum of Rs.1,00,000/- from and out of the arrears of leave salary of the petitioner subject to Section 60 CPC. He, therefore, states that without following the procedure under Section 60 CPC, respondent No.2 withheld the entire amount, which cannot be attached as per law and, hence, he filed the instant writ petition seeking the aforesaid relief.

4. Heard Sri V. Sai Kumar, learned counsel for the writ petitioner.

5. It is clear from the very writ petition averments that the orders were passed by the Additional Senior Civil Judge, Srikakulam, and the Principal Junior Civil Judge, Rajahmundry, in civil proceedings, referred to in the above. The writ petitioner is respondent-defendant in I.A. No.348 of 2008 in O.S. No.266 of 2008 on the file of the Additional Senior Civil Judge, Srikakulam, as seen from the material placed on record. Likewise, he is also the respondent-defendant in I.A. No.2127 of 2008 in O.S. No.684 of 2006 on the file of the Principal Junior Civil Judge, Rajahmundry, as per the cause title in the order of attachment. Thus, it is clear that if the petitioner has got

any grievance, an efficacious remedy is available to him and he ought to have approached the very same court or appellate court. Thus, when an efficacious remedy is available under the provisions of CPC, certainly, he cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India. There is no merit in the instant writ petition.

6. Accordingly, the instant Writ Petition is dismissed. There shall be no order as to costs.

7. As a sequel thereto, miscellaneous petitions, if any pending in this petition, shall stand closed.

**A. SHANKAR NARAYANA,
J**

13th October, 2015.

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