

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4522 of 2010

ORDER:

Heard Sri G.Allabakash, learned counsel for the petitioner and Sri G.Dhananjai, learned counsel for 1st respondent.

2. This Revision Petition is filed challenging the order dt.29-06-2010 in I.A.No.370 of 2010 in O.S.No.2523 of 2010 of the II Junior Civil Judge, City Civil Courts, Hyderabad.

3. Petitioner herein is 2nd defendant in the suit. The 1st respondent herein filed the suit against the petitioner for recovery of money arising out of a chit transaction. The 1st respondent/plaintiff filed I.A.No.370 of 2010 in O.S.No.2523 of 2010 under Order 38 Rule 5 CPC to attach a sum of Rs.85,000/- including costs from out of the retirement benefits which became payable to the petitioner and which were in the hands of 5th respondent.

4. By Order dt.29-06-2010, the Court below directed the petitioner to furnish security for a sum of Rs.85,000/- on or before 01-07-2010 failing which the retirement benefits of the

petitioner to the extent of Rs.85,000/- to be attached.

5. Petitioner did not file any application to raise the said attachment invoking the Order 38 Rule 6 CPC. Instead he filed Revisions Petition in this Court and obtained an order of stay of all further proceedings including operation of the impugned order.

6. Without going into the merits of the rival contentions of the petitioner and 1st respondent, I am of the opinion that the petitioner ought to file a counter before the Court below in the said application explaining why he should not be asked to furnish security to the suit claim.

7. Therefore, the Civil Revision Petition is dismissed giving liberty to the petitioner to approach the Court below and file a counter as to why he should not furnish security as directed by the Court below; such application shall be filed within a period of three weeks from the date of receipt of a copy of this order and if such application is filed, the Court below shall dispose of it within a further period of six weeks thereafter after hearing both sides. It is made clear that if no such counter affidavit is filed by the petitioner, the impugned order will revive. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-06-2015

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