

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

FRIDAY, THE FIFTH DAY OF JUNE

TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No.1818 of 2015

BETWEEN

M. Rama Naidu.

... PETITIONER

AND

C. Somanadha.

...RESPONDENT

Counsel for the Petitioner: MR. O. UDAY KUMAR

Counsel for the Respondent: --NONE APPEARED--

The Court made the following:

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ORDER:

Petitioner herein is the judgment debtor in EP.No.23 of 2015, which was filed for execution of a decree dated 02.11.2011 passed in O.S.No.216 of 2011. In the said execution petition, the decreed holder has sought attachment of retiral benefits of the petitioner. Under the impugned order dated 27.02.2015, the Court below granted the relief as prayed for in EA.No.58 of 2015 attaching the retiral benefits of the petitioner/judgment debtor. The said order was, admittedly, passed *ex parte* without notice to the petitioner herein. Hence, the same is questioned in this revision.

2. I have heard the learned counsel for the petitioner.

3. It is apparent that the decree has attained finality and has to be executed. If the petitioner has any contention to advance in the said EP, he may appear before the executing Court and make appropriate application to enable the executing Court to appreciate the same and to pass further order. The present order of attachment ordered to Garnishee being an order *ex parte* without hearing the petitioner,

I deem it appropriate to dispose of the revision petition with the following direction:

“Petitioner shall appear before the executing Court in EP.No.23 of 2015 and submit his objections to the execution, as proposed. The executing Court shall hear the petitioner as well as the respondent/decreed holder and the pass appropriate final orders with respect to EA.No.58 of 2015 either by modifying, vacating or confirming the order of attachment. Since the petitioner’s retiral benefits are under attachment since February 2015, it is appropriate that the executing Court hears and decides the matter expeditiously, preferably, within a period of four (4) weeks of petitioner approaching the executing Court with an appropriate application affidavit. The order of attachment to continue pending further order to be passed by the executing Court.”

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

June 5, 2015

DSK