

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.1381 of 2014

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondent.

2. The petitioners herein are judgment debtors in pursuance of a decree in O.S.No.40 of 2011 dated 30.06.2012 on the file of the Court of III Additional Chief Judge, City Civil Court at Hyderabad (for short, trial Court). The respondent herein filed the said suit seeking recovery of money claiming that the said money was due for the services rendered by him as an employee of the petitioners. The respondent resigned on 06.05.2010. The petitioners herein filed I.A.No.2767 of 2013 seeking condonation of delay in filing a petition to set aside the said decree. In the meanwhile, without passing any orders in the said application, the trial Court passed an order in E.P.No.7 of 2013 on 21.04.2014 ordering attachment of movables of the petitioners. The order of the trial Court reads as follows:

“9. Without depositing any amount as per the decree he is seeking the stay of the E.P. without any grounds and more over if the attachment is ordered it would not cause any damage to the judgment debtor and it protects the interest of the decree holder in particular till the decision of E.P. If the protection order is not passed, the decree holder would get irreparable loss, being attachment E.P. this court cannot direct the deposit of suit amount. If the judgment debtor feels inconvenience he can deposit the EP amount till the decision under stay application. Hence, this court considered that by giving liberty to the judgment debtor to deposit the suit amount. If the judgment debtor feels any inconvenience to his reputation until then, this Court is of the considered opinion that protection of the suit amount is necessary. Hence this point is answered in favour of the decree holder and more over if the attachment is ordered it does not affect the rights of the decree holder and without attachment of the EP schedule property, EP cannot be proceeded.”

Challenging the said order, the present Civil Revision Petition is filed.

4. A perusal of the above order shows that there cannot be any doubt of recovery of the amount from the petitioners herein in the event of the decree becoming final. But, the trial Court opined that the judgment debtors (petitioners herein) should have deposited the suit amount, if they felt any inconvenience. The trial Court also came to the conclusion that the attachment does not affect the rights of the decree holder.

5. In the circumstances, the impugned order of the trial Court dated 21.04.2014 is set aside and the trial Court is directed to consider the pending applications for condoning delay in setting aside decree before it and pass appropriate orders thereon in accordance with law within a period of 60 days from the date of receipt of a copy of this order. If the petitioners are unable to serve notices on the respondent, the petitioners shall be given liberty to serve notice on the counsel appearing for the respondent in E.P.No.7 of 2013.

6. The Civil Revision Petition is, accordingly, allowed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 27.11.2015

TJMR