

Application Nos. 5136 and 8212 of 2015
in
A.No.859 of 2015
and O.P.No.978 of 2015

K.RAVICHANDRABAABU,J.

Application No.879 of 2015 was filed under Section 9 of the Arbitration and Conciliation Act, seeking for an order of attachment of the salary of the 3rd respondent /guarantor. This Court, by order dated 15.04.2015, allowed the application directing attachment of the salary of the 3rd respondent at the hands of the 4th respondent employer therein, to the extent of the permissible limits under Section 60 of the Code of Civil Procedure. Application No.8212 of 2015 is filed by the very same applicant, seeking for a direction to the 4th respondent /garnishee to implement the order already made by this Court on 15.04.2015. Application No.5136 of 2015 is filed by the applicant to raise the attachment order passed on 15.04.2015.

2. The applicant in Application No.5136 of 2015 is claimed to be the guarantor, which fact is disputed by the applicant by contending that he did not sign the loan agreement as the guarantor and that his signature was forged therein.

3. A counter affidavit is filed by the 4th respondent/ garnishee stating that 1/3rd of the salary, after giving statutory deduction,

available for attachment is Rs.12,736/- and the garnishee shall deduct the amount, if the Court so directs.

4. Heard the learned counsel appearing on either side.

5. It is not in dispute that the award also came to be passed which is challenged by the present applicant who seeks to raise the order of attachment in O.P.No.978/2015. The said O.P. is now pending before this Court. Therefore, all the contentions raised by the respective parties with regard to the genuineness of the participation of the guarantor in the loan transaction has to be considered and decided only when the main O.P. is taken up for consideration, however, till such time, in order to protect the interest of both parties, the order already made by this Court on 15.04.2015 has to be continued by making a modification as follows:

The garnishee shall attach a sum of Rs.12,736/- from the salary of the applicant in A.No.5136 of 2015 and deposit the same into the credit of O.P.No.978 of 2015 pending before this Court. The financier shall not withdraw the said sum till the main O.P. is decided.

6. In view of the above order passed, all the above applications are disposed of accordingly.

7. Post the main O.P. for final disposal in the third week of July, 2016. Registry is directed to keep the original records already filed by the employer in a sealed cover. The financier shall produce the original records at the time of final hearing of the O.P.

21.03.2016

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