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ORDER

The Fair and Decreetal order passed by the Executing Court, viz., the learned X Assistant Judge, City Civil Court, Chennai, in E.P.No.2468 of 2015 in A.C.P.No.(EF/CMS) 267 of 2013, on 15.03.2016, whereby, the salary of the Judgment Debtor No.2 was ordered to be attached, is under challenge.

2. Mr.K.Thilageswaran, the learned counsel appearing for the petitioner/Judgment Debtor No.2, relies upon the provision of Section 134 of the Indian Contract Act, which reads as follows:-

"The surety is discharged by any contract between the Creditor and the Principal Debtor, by which the Principal Debtor is released, or by any act or omission of the Creditor, the legal consequence of which is the discharge of the Principal Debtor."

Relying on the above said provision, the learned counsel would submit that when the Principal Debtor is dead, the liability of the Principal Debtor gets discharged and therefore automatically, the liability of the surety/ guarantor would also gets discharged.

Just because this principal debtor is dead, his liability did not get discharged. The liability exists to the extent of the property available in the name of the principal debtor.

3. In this revision, there are no grounds made out to show that the Principal Debtor can get discharged from the liability. Though, it is stated that the Principal Debtor is dead, it is for the decree holder to take steps to implead the legal representatives. That does not imply that the liability of the Principal debtor is discharged. Therefore, there is no question of discharge of surety on this ground.

4. There are no valid grounds to entertain this revision petition. In the result, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

05.05.2016

Index:Yes/No
Internet Yes/No
paa/nvi/arr

Dr.S.VIMALA,J

paa/nvi

To

The X Assistant Judge
City Civil Court
Chennai.

Civil Revision Petition (NPD) No.
1441 of 2016
and C.M.P.No.7929 of 2016

05.05.2016