

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.3251 OF 2016

ORDER:

This Civil Revision Petition is filed challenging the Order dated 23.06.2016 passed in Execution Petition No.165 of 2014 in Original Suit No.590 of 2008 by the Additional Senior Civil Judge, Tirupathi, Chittoor District, wherein the petition filed by the 1st respondent herein/D.Hr under Order XXI Rules 43, 64 and 66 CPC for attachment of movable property of the petitioner/J.Dr.No.1 for realisation of decretal amount was allowed.

2. The petitioner herein is judgment debtor No.1 and respondent No.1 herein is the decree holder. The grievance of the petitioner is that he paid an amount of Rs.20,000/- towards part payment of E.P.No.497 of 2009 in O.S.No.590 of 2008 on 26.10.2010; that the present E.P.No.165 of 2014 is also for recovery of the same amount and the Court below without observing the said aspect, erred in allowing the above E.P., holding that the said amount was paid in E.P.No.497 of 2009

3. Heard the learned counsel for the petitioner and the learned counsel for respondent No.1.

4. Learned counsel for the petitioner mainly submits that there is another execution petition filed by respondent No.1 for the very same amount, which is disputed by the learned counsel for respondent No.1 and he further states that there is no other execution petition except the present proceedings. He submits that the dispute is with regard to Rs.20,000/- only and the Court below after considering all the aspects allowed the petition.

5. In view of the representations made by the learned counsel appearing for both the parties, it would be appropriate to remand the matter to the trial Court for fresh consideration.

6. Accordingly, the Civil Revision Petition is allowed setting aside the impugned Order dated 23.06.2016 passed in Execution Petition No.165 of 2014 in Original Suit No.590 of 2008 by the Additional Senior Civil Judge, Tirupathi, Chittoor District, and the matter is remanded to the trial Court to consider the same afresh, after hearing both the parties, within a period of one month from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any, pending in this revision shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:27.08.2016
INL