

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.1059 OF 2016

ORDER:

The Civil Revision Petition is filed under Article 227 of Constitution of India by petitioner/ judgment debtor impugning the docket order passed on 05.01.2016 in E.P. No.50 of 2014 in O.S. No.17 of 2006 on the file of the Senior Civil Judge, Rayachoti.

2) Heard learned counsel for petitioner/ judgment debtor and learned counsel for respondent/ decree holder and perused the material on record.

3) The decree holder filed E.P. No.50 of 2014 under Order XXI Rule 48 C.P.C for recovery of Rs.4,21,637/- on the basis of money decree dated 05.07.2006 passed in O.S. No.17 of 2006. Earlier to this E.P, the decree holder filed another E.P. No.66 of 2007 under Order XXI Rule 48 C.P.C as the judgment debtor is a public servant to attach the attachable portion of the salary to recover towards satisfaction of the decree debt. The E.P. No.66 of 2007 was allowed by ordering recovery of salary of Rs.2,207/- per month for a period of 22 months and that the said amount had been withdrawn by the decree holder. The counsel could not furnish any information but for saying the salary covered in that execution was only for 22 months even the order of the lower Court no way reflects any further information. The present E.P. No.50 of 2014 is again filed for recovery of decretal amount remained unsatisfied by attachment of salary of judgment debtor and the same was ordered despite contest by judgment debtor for execution of the self same decree that the salary of judgment debtor as mode of execution under Order XXI Rule 48 C.P.C cannot be attached for more than 24 months.

4) Section 60 (1) (2) C.P.C is crystal clear in this regard and also the expression of the Bombay High Court in ***Bapu Gadgil vs***

Smt.Rama, I^[1] that was even referred by the lower Court and it was under the impression that the bar has no application which is not correct from the very reading of the provisio (2) of Section 60 (1) C.P.C.

5) Having regard to the above, the revision is allowed confirming the interim order dated 26.02.2016 passed by this Court, as the decree holder is not entitled to execute the salary attachment and recovery from the salary of the judgment debtor beyond 24 months in execution of the decree. There is no order as to costs.

6) As a sequel, miscellaneous petitions if any pending in this Civil Revision Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.13.04.2016
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