

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.2410 of 2016

ORDER :

This Revision is filed challenging the order dt.28.03.2016 in E.P.No.80 of 2015 in O.S.No.333 of 2006 on the file of I Additional Junior Civil Judge, Bhimavaram.

2. The petitioner herein is respondent in the said E.P.

3. Alleging that she is the Judgment-Debtor against whom a decree dt.11.06.2007 for recovery of a sum of money was obtained in the above suit, the above E.P. was filed against her.

4. The petitioner filed a counter-affidavit disputing that she was the Judgment-Debtor in the suit and contending that she is not liable to satisfy the decree and her salary is not liable for attachment.

5. Before the Court below no evidence was adduced by petitioner in support of her plea that she was not the Judgment-Debtor in the suit, although xerox copies of Pan Card and Aadhaar Card are shown to be filed along with counter-affidavit filed by petitioner.

6. On the ground that petitioner has not adduced any evidence in support of her plea, the Court below

directed attachment of salary of the petitioner under Section 60 C.P.C. Assailing the same, the petitioner has filed the present Revision.

7. The petitioner contends that she is not the person against whom decree was obtained by respondent; that she had filed colour xerox of Aadhaar Card and Pan Card to show that she is a person different from Judgment-Debtor in the suit, but the Court below erroneously directed attachment of petitioner's salary.

8. Notice was directed to be ordered for the counsel for respondent, since the address of respondent was not properly displayed in the E.P.

9. Notice in this Revision was also directed to respondent, and although it is served on respondent's counsel, there is no representation on behalf of respondent.

10. Since the petitioner claims to be an employee and denies that she is the Judgment-Debtor and she has filed copies of the Pan Card and Identity Card issued to her to show that she is a person different from Judgment-Debtor, without expressing any opinion on the truth or genuineness of these documents, I consider it appropriate to set aside the order passed by the Court below and remit the matter back to it so that the petitioner has an opportunity to establish her case by deposing in the Court

below and producing the material available with her in proof of her plea that she is not the Judgment-Debtor in the suit.

11. Accordingly, the Civil Revision Petition is allowed and the order dt.28.03.2016 in E.P.No.80 of 2015 in O.S.No.333 of 2006 on the file of I Additional Junior Civil Judge, Bhimavaram is set aside; and the matter is remitted back to the said Court. No order as to costs.

12. This exercise shall be completed by the Court below within a period of three (03) months from the date of receipt of a copy of this order.

13. The petitioner is given liberty to produce evidence before the said Court in support of her plea that she is not the Judgment-Debtor in the suit. The respondent shall also be given an opportunity to lead rebuttal evidence.

14. If the petitioner does not co-operate before the Court below, the Court below is entitled to proceed *ex parte* in the matter.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-06-2016

Ndr/*

