

**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN**

**Civil Revision Petition No.2291 of 2016**

**ORDER:**

The Civil Revision Petition arises out of the dismissal of an application taken out by the defendants in a suit for recovery of money, for conducting a detailed enquiry in an application for punishing them for violating an order of attachment.

Heard Sri V.S.R. Anjaneyulu, learned counsel for the petitioners and Sri T.C. Krishnan, learned counsel for the respondent.

The respondent filed a suit in O.S.No.64 of 2013 on the file of Senior Civil Judge, Nuzvid seeking recovery of money due on a promissory note allegedly executed by the petitioners herein. Pending the suit, the respondent obtained an order of attachment of certain properties belonging to the petitioners, in I.A.No.256 of 2013. The said attachment is still subsisting.

Alleging that in violation of the order of attachment, the petitioners sold the suit properties, the respondent-plaintiff took out an application in I.A.No.440 of 2015, seeking to punish the petitioners herein. It appears that the enquiry into the said application is pending for quite some time.

The petitioners herein thereafter took out another application in I.A.No.152 of 2016 to conduct a detailed enquiry in I.A.No.440 of 2015. This petition was dismissed by the trial Court, forcing the defendant to come up with the above revision.

The suit is one for recovery of money, due allegedly on a

promissory note. An order of attachment of certain properties has been granted by the trial Court in I.A.No.256 of 2013. An order of attachment is passed under Order 38 Rule 5 of the Code of Civil Procedure.

If any one sells a property, which is under an order of attachment, the same may not attract the provision of Order 39 Rule 2A of the Code. The question as to what happens to the order of attachment if an alienation takes place, needs hardly to be answered since the law is very clear that the attachment is to the property.

Therefore, I do not see why the parties waste their time and the time of the Court in seeking a detailed enquiry into such an application under Order 39 Rule 2A of the Code. There is no provision under Order 38 Rule 5 of the Code, which is similar to Order 39 Rule 2A. Unfortunately, both parties as well as the Court have gone on a different track that will not take them to the destination.

Therefore, the Civil Revision Petition is disposed of, directing the trial Court to close I.A.No.440 of 2015 without any further enquiry and proceed with the trial of the suit and dispose it of within a period of four (4) months from the date of receipt of a copy of the order.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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**V. RAMASUBRAMANIAN, J**

Date: 17-06-2016

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