

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Civil Revision Petition No.5529 of 2016

ORDER:

This Civil Revision Petition is filed by the Judgment Debtors 2 and 4 aggrieved by the order dated 08.09.2016 in E.P.No.16 of 2016 in DRK No.233 of 2014 on the file of Principal Junior Civil Judge, Kadapa.

2) The Execution Court while allowing the E.P ordered attachment of salary of Judgment Debtor No.4 @ Rs.5,000/- p.m for 9 months towards realization of the E.P. amount and also garnishing of Judgment Debtors 1 and 2 to attach their salaries subject to Section 60 (i) CPC.

Hence the instant CRP by J.DRs 2 and 4.

3) Heard arguments of Sri L.J.Veera Reddy, learned counsel for petitioners/J.Drs and Sri P.Durga Prasad, learned counsel for respondent No.1/Decree Holder and with their consent this CRP is disposed of at the admission stage.

4) The main contention of the petitioners/J.Drs before this Court as well as before the Execution Court is that when the Decree Holder proceeded against J.Dr No.1, who is the principal borrower, he cannot proceed simultaneously against other J.Drs, who are only guarantors in a Chit fund transaction. However, perusal of the impugned order would show that the Executing Court, by following the decision reported in *State Bank of India vs. Index Court*¹, held that since the decree under

¹ AIR 1992 SC 740

execution was imposing the joint and several liability on all the J.Drs, it was the prerogative of the Decree Holder to proceed against all or any one of the J.Dr as per his choice and the Court under law cannot obstruct him and accordingly negated their contention and allowed the Execution Petition. In that view of the matter, I find no merits in the C.R.P.

5) Accordingly, this Civil Revision Petition is dismissed at the admission stage by confirming the order of the Execution Court. No costs.

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

Dt. 30.12.2016
scs



U. DURGA PRASAD RAO, J