

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.678 of 2016

ORDER:

This is a civil revision petition by the Judgment Debtor under Section 115 of the Code of Civil Procedure, 1908, against an order dated 08.01.2016 passed in E.P.No.241 of 2015 in OS.No.779 of 2009 on the file of the Court of the learned Principal Senior Civil Judge, East Godavari District at Rajahmundry.

I have heard the submissions of Sri M. Venkateswara Rao, learned counsel for the revision petitioner-Judgment Debtor ('the JDr', for brevity) and of Sri N. Siva Reddy, learned counsel appearing for the 1st respondent/ Decree Holder ('the DHr', for brevity). I have perused the material record.

The facts which are necessary to be stated as a prelude to this order, in brief, are as follows: - 'The DHr obtained a decree for recovery of money. The said decree has attained finality. Thereafter, the DHr filed the Execution Petition and sought attachment of the salary of the JDr. The executing Court ordered attachment of salary and accordingly a warrant of attachment of salary was sent to the garnishee/ paying and disbursing officer of the JDr. Having received a copy of the warrant, the JDr preferred this revision.'

The order which was passed by the executing Court directing attachment of the salary of the JDr is not assailed in this revision and only a warrant which was issued pursuant to the said orders is assailed. Therefore, on that ground alone, this revision petition is liable to be dismissed. Be that as it may.

This Court, on 05.02.2016, while dispensing with the filing of the certified copy of the order of the Court below, granted stay of all further proceedings in the Execution Petition on condition of the JDr depositing half of the decretal amount. It is fairly conceded that the said conditional order is not complied with.

At the hearing, it is stated by both the learned counsel that though the condition imposed in the stay order was not complied with, the directions in the attachment warrant were not complied with by the garnishee in view of the conditional orders of stay.

In the above stated background of events and facts, learned counsel for the JDr would submit as follows: - 'The brother of the JDr borrowed the amount and the JDr stood as a guarantor. His signatures were obtained on blank papers. The decree was based on conjectures and surmises. Therefore, the order of attachment is liable to be set aside.'

Learned counsel for the DHr would submit that the decree has become final and the contentions of the JDr are untenable as the executing Court is precluded from going behind the decree.

Having regard to the facts and submissions and as there are no tenable grounds raised in the revision petition, this Court is of the considered view that this revision petition is not maintainable and is liable to be dismissed on merits as well.

On the above analysis, the Civil Revision Petition is dismissed. It is made clear that the garnishee/paying and disbursing officer of the JDr shall now implement the warrant directions and send the attached portion of the salary of the JDr to the executing Court for payment towards the decree debt due and payable to the DHr under the decree, which is being put to execution in the execution proceedings.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

07th December, 2016
Vjl