

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.2579 of 2016

ORDER:

This Civil Revision Petition by the Judgment Debtor under Section 115 of the Code of Civil Procedure, 1908, is directed against the warrant of attachment dated 18.03.2016 issued by the executing Court under Order XXI Rule 54 of the Code of Civil Procedure, 1908 in E.P.No.38 of 2016 in O.S.No.187 of 2013.

2. I have heard the submissions of the learned counsel for the petitioner/ Judgment debtor (hereinafter, 'J.Dr') and perused the material record. The Decree Holder (hereinafter, 'D.Hr') refused to receive the notice sent and the notice is returned with an endorsement 'refused'. Therefore, there is valid service.

3. The facts, as stated by the learned counsel for the J.Dr and as borne out by the record, are that the D.Hr having obtained a decree for recovery of money filed an execution petition and sought attachment of immovable property mentioned in the schedule of the execution petition. The Executing Court having ordered attachment issued a notice/ warrant of attachment of schedule property under Order XXI Rule 54 of the Code. The said notice/ warrant is under challenge.

4. In the considered view of this Court, the revision petition filed against such a notice/ warrant is not maintainable as the revision petitioner/ Judgment debtor is required to challenge the order of attachment, which was passed by the executing Court and not the notice/ warrant which was issued pursuant to said orders. Be that as it may.

5. The learned counsel for the J.Dr would submit that a counter has been filed stating various contentions and *inter alia* pleading that the property does

not belong to the J.Dr. He makes a request to dispose of the revision petition giving appropriate directions to the Executing Court to give an opportunity of hearing to the J.Dr.

6. Having regard to the facts and observations supra, the Civil Revision Petition is dismissed. However, it is needless to mention that since the J.Dr has put in appearance in E.P.No.38 of 2016 and filed a counter, the Executing Court shall give an opportunity of hearing to the J.Dr before passing any further orders.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

26th November, 2016
RAR



M. SEETHARAMA MURTI, J