

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5198 OF 2016

ORDER:

The present Civil Revision Petition is preferred by Judgment Debtor No.4 in E.P. No.60 of 2014, on the file of the Judicial Magistrate of First Class, Adilabad, aggrieved over the order, dated 29-04-2016, passed therein.

By the aforesaid order, the executing Court ordered attachment of salary of the revision petitioner – judgment debtor No.4, working as Attender in Veterinary Hospital, Bhoktapur, Adilabad District, for realization of the decretal amount of Rs.81,060/-, which was due amount of the chit on the basis of agreement and promissory note jointly executed by the revision petitioner herein along with judgment debtor Nos.2 and 3 for the loan obtained by deceased judgment debtor No.1.

Challenging the attachment order, the present revision petition is filed by judgment debtor No.4.

Heard Sri Ch. Rashtrapal, learned counsel for the revision petitioner - Judgment Debtor No.4, and Sri Maheswara Rao Kuncham, learned counsel for respondent No.1 - Decree Holder.

The learned counsel for the revision petitioner would submit that judgment debtor No.1 being the principal borrower, the decree

holder ought to have proceeded against him and realized the amount, and then only ought to have proceeded against the revision petitioner.

Per contra, the learned counsel for respondent No.1 - decree holder would submit that in fact, initially, the salary of judgment debtor No.4 was attached for realization of the decretal amount, but the decree could not be satisfied for the reason that for 24 months, the attachable portion since was very less, could realize Rs.28,950/- and, thereafter, proceeded against the revision petitioner.

In fact, when joint and several liability is created or ordered by the decree, certainly, it is not open for any of the judgment debtors to contend that the decree holder shall proceed against judgment debtors in seriata. So long as joint liability remains on record, judgment debtor has no option except to satisfy the decree. Therefore, there is no merit in the revision petition.

The Civil Revision Petition is dismissed accordingly. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

A. SHANKAR NARAYANA, J

November 04, 2016.

Mgr