

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CRP.No.969 of 2016**

**ORDER :**

This Revision is filed challenging the order dt.01.06.2015 in I.A.No.215 of 2015 in O.S.No.225 of 2013 on the file of Principal District Judge, Warangal.

**2.** The petitioner herein is the plaintiff in the above suit.

**3.** He filed the suit for recovery of a sum of Rs.17,20,000/- on the basis of two promissory notes. He also filed I.A.No.215 of 2015 under Order 38 Rule 5 C.P.C. to attach the 1/3<sup>rd</sup> undivided share of respondent in the plaint schedule property in support of his plea that respondent is trying to alienate his undivided share in the property.

**4.** The petitioner filed his own affidavit and also affidavit of one Sri Chapala Bubu Reddy, S/o. Sri Ramchandra Reddy, R/o.Thorrur Village in support of his plea that the share of respondent in the plaint schedule property should be attached.

**5.** It is not in dispute that the suit schedule property is alleged to be located at Padakal Revenue Village, Talakondapalli Mandal, Mahaboobnagar District.

**6.** The respondent filed a counter saying that the property shown in the petition schedule does not exist.

**7.** By order dt.01.06.2015, the Court below dismissed the said I.A. stating that the property is located outside its territorial jurisdiction; petitioner did not produce the affidavit of any person residing in the village where the property is located or placed any material to show that he made enquiries; and on the basis of such information he has come to know that the respondent is proposing to alienate the property, order of attachment before judgment cannot be given.

**8.** Although the counsel for petitioner sought to contend that the Court below ought not to have rejected the application under Order 38 Rule 5 C.P.C. only on the ground that the third-party affidavit from a resident of the village where the property was allegedly located was not filed, I am not inclined to agree with the said submission of the counsel for petitioner.

**9.** Interim orders by way of temporary injunction or attachment before judgment seriously affect the rights of a defendant in the suit. Therefore, unless *prima facie* case is made out such orders cannot be granted as a matter of routine.

**10.** In the present case, the property is located in Padakal Revenue Village, Talakondapalli Mandal,

Mahaboobnagar District outside the territorial jurisdiction of the Court. It would have been better if the petitioner had obtained a third-party affidavit of a resident of that village in support of his plea that respondent is intending to alienate the petition schedule property, but he filed an affidavit of a resident of Thorrur Village. He did not place any other material also in support of the plea that respondent intends to dispose of his property to defeat the decree which the petitioner may obtain in the suit.

**11.** In this view of the matter, I do not find any error of jurisdiction in the order passed by the Court below dismissing I.A.No.215 of 2015 in O.S.No.225 of 2013 on the file of Principal District Judge, Warangal. Accordingly, the CRP is dismissed at the state of admission. No order as to costs.

**12.** As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 11-03-2016

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