

**THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION No.2461 of 2016**

**ORDER:**

-

This revision is filed challenging the order passed by XI Junior Civil Judge, City Civil Court, Secunderabad, in E.P.No.523 of 2015 in O.S.No.205 of 2013, under Section 115 of the Code of Civil Procedure (C.P.C.).

It is the case of the petitioner that a decree was passed for recovery of Suit amount of Rs.60,600/- together with interest @ 6% per annum on the principal sum of Rs.30,000/- from the date of suit till the date of realization. But the revision petitioner paid Rs.40,000/- on 03.07.2015 and again issued an attachment order under Order XXI Rule 48 of C.P.C. for attachment of his salary for Rs.70,900/- which the petitioner is not liable.

Learned counsel for the petitioner while reiterating the contentions urged in the revision petition, mainly contended that even if the interest is calculated on Rs.30,000/- from 2013, it would not be so high and it will be less than Rs.30,000/- or Rs.40,000/- in total and prayed to set aside the order under challenge.

It is the case of the petitioner that a decree for recovery of Rs.60,600/- was passed on 14.11.2014 with subsequent interest @ 6% per month on Rs.30,000/- from the date of suit till the date of realization. It is the contention of the revision petitioner that he paid Rs.40,000/- on 03.07.2015 and it is not known whether it is a certified payment or not and apart from that issue of an attachment for recovery of Rs.70,900/- which is challenged is itself far exceeding the decretal amount with subsequent interest, etc. Thus, it is a pure question of a

calculation of amount and admittedly the petitioner did not discharge the debt except the alleged payment of Rs.40,000/-. In any view of the matter Form No.19 issued under Order XXI Rule 48 of C.P.C. discloses that a direction was issued to the disbursing officer to withhold a sum of Rs.40,000/- and also issued attachment order under Order XXI Rule 48 on 25.04.2016 directing the disbursing officer – employer to with hold a sum of Rs.70,900/- and remit an amount of Rs.10,000 per month as installments. This issue is purely a question of calculation and certification of the alleged amount paid by the petitioner on 03.07.2015. If it is certified payment within Order XXI Rule 2 of C.P.C., then this amount is liable to be deducted.

Therefore, it is appropriate to direct the executing Court to consider the calculation Memo, if any, filed by the petitioner and respondent to arrive at the amount due under the decree and recover the amount.

Hence, the petitioner is directed to approach the executing Court and file a calculation memo calculating the amount due and make a request for modification of the order under Order XXI Rule 48 of C.P.C., issued by the employer of the petitioner. On filing of such memo, the executing Court has to invite the objections from the decree holder-respondent herein and decide the actual amount due to the decree holder-respondent by the petitioner-judgment debtor and issue directions to the employer of the petitioner for retention of the amount actually due and send in monthly installments from the salary payable to the petitioner under Order XXI Rule 48 of C.P.C.

With the above direction, the C.R.P. is disposed of. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall also stand closed.

---

**JUSTICE M. SATYANARAYANA  
MURTHY**

08.08.2016  
vnb