

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3247 of 2016

ORDER:

This Civil Revision Petition under Section 115 of the Code of Civil Procedure (for short 'CPC') is filed challenging the Order in E.A.No.22 of 2015 in E.P.No.3 of 2014 on the file of XI Additional Chief Judge, City Civil Court, Hyderabad, dismissing the application filed for attachment of the amount lying with the accounts of M/s Central Bank of India, M/s IDBI Bank Limited, M/s Indian Overseas Bank, Oriental Bank of Commerce and M/s UCO Bank, which were shown as respondent Nos. 3 to 9 in Execution Petition pertaining to respondent No.2, the Judgment Debtor, alleging that the revision petitioner obtained decree dt. 8.11.2013 passed by the UK High Court and on the strength of the same, he filed E.P.No.3 of 2014 before the Executing Court, vide Order dt. 21.04.2014 and the Executing Court passed an Order for attachment of movable property and the bank account of R.2 herein and thereafter the respondents approached this Court challenging the Order, by way of W.P.No.13828 of 2014. Further, the revision petitioner/decreed holder filed an application vide E.A.No.738 of 2014 in E.P.No.3 of 2014 seeking a direction against respondent No.2 to furnish the details of the assets, both movable and immovable, including the details of its bank account and the same was allowed by Order dt. 17.06.2015 by

the Executing Court. But, respondent No.2, despite the direction issued by the Executing Court, in utter violation of the Order dt. 17.06.2015, did not disclose the details of its assets within the stipulated time, which is inclusive of bank account details. On the other hand, respondent No.2 filed an affidavit dt. 22.07.2015 apprehending threat of arrest along with inventory list. In view of the objection raised by the revision petitioner/decree holder, respondent No.2 filed second affidavit disclosing certain bank accounts, but those accounts were all outside the jurisdiction of this Court. This Court vide Order dt. 21.04.2014 made it clear that respondent No.2 has bank accounts within the jurisdiction of this Court with the Bank of Baroda, Bank of India, Central Bank of India, IDBI Bank, Indian Overseas Bank, Oriental Bank of Commerce and the UCO Bank. Despite the Order of this Court about the disclosure of the accounts, they did not disclose the correct details of the account number etc., Hence, the present Petition is filed before the Executing Court under Order 21 Rule 46 and 46-A of CPC directing the aforesaid banks to disclose, on affidavit, the details of bank accounts operating in favour of respondent No.2 and attach the amount belonging to respondent No.2 lying with the aforesaid banks to the credit of respondent No.2 while directing the said Banks not to transfer the same to respondent No.2, pursuant to direction to pay into the Court the debt due in order to satisfy the decretal amount.

2. Respondent No.2 filed Counter denying material allegations, *inter alia*, contending that application under Order 21 Rules 46 and 46-A of CPC with two independent prayers in a single application is not maintainable and it is contrary to Rule 55 of the Andhra Pradesh Civil Rules of Practice, 1980 (for short 'Civil Rules'). The prayer under Order 21 Rule 46(A) of CPC can be granted only after debt is attached under Order 21 Rule 46 of CPC. As there is no attachment of debt under Order 21 Rule 46(A) of CPC, the question of directing respondent Banks to deposit the amount under Order 21 Rule 46(A) of CPC to satisfy the Decretal amount and costs of execution does not arise and the present application is premature.

b) It is further contended that as per the Order dt. 21.04.2014 in W.P.No.13828 of 2014 passed by this Court, the respondent has been permitted to operate the bank accounts and therefore, the question of attachment of bank accounts of respondent No.2 herein does not arise and that the Order has been confirmed in W.P.No.13828 of 2014 and attachment of bank accounts cannot be sought for without details of the said accounts and prayed for dismissal of the petition.

3. Upon hearing argument of both the counsel, the Executing Court passed an order dismissing the application on the ground that the amount lying to the credit of the accounts with respondent Nos. 3 to 9 were not attached under Order 21 Rule 46 CPC and that in the absence of any details, no order can be

passed against the aforesaid banks i.e, R.3 to R.9 directing them to deposit the amount to the credit of the execution petition.

4. Aggrieved by the Order and Decretal Order passed by the Executing Court in E.A.No.22 of 2015 in E.P.No.3 of 2014, the present Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure raising several contentions.

5. During hearing, Sri S. Niranjan Reddy on behalf of Sri N. Harinath, learned counsel for revision petitioner contended that even if no order of attachment may be passed is to be directed to furnish the account details of respondent No.2 maintained with their offices referred in the cause title and they are bound to disclose the accounts to satisfy the decree and thereupon the Court can pass an Order. But, the Executing Court only on the ground that the amount was not attached under Order 21 Rule 46 of CPC and on the ground that the details of the banks were not furnished, dismissed the Execution Petition filed under Order 21 Rules 46 and 46-A of CPC.

6. The counsel for R.1 contended that unless the amount is attached under Order 21 Rule 46 of CPC, no order can be passed under Order 21 Rule 46-A of CPC and supported the Order passed by the Executing Court in all respects.

7. On the other hand, the counsel for respondent No.2 did not file any counter. However, objected for passing such an order since the details were not furnished by the petitioner to

attach the amount, if any, lying with the banks, referred to supra, in the account of respondent No.2 and in the absence of any details of the bank accounts, no order can be passed.

8. Learned counsel for Respondent No.7 disputed the claim of the revision petitioner and contended that respondent No.7 is only an administrative office at Hyderabad region and in this office, no transactions are taken place and no receipts or deposits are accepted and no bank accounts are opened or maintained in this office. In those circumstances, it cannot implement any order passed for attachment of the amount lying to the credit of the account of R.2 and prayed for dismissal of the Petition.

9. Considering rival contentions of both counsel and perusing the material available on record, the point that arises for determination is:

“ Whether the Banks i.e., respondent Nos. 3 to 9 be directed to send the amount lying with them to the credit of Execution Petition in the absence of any attachment under Order 21 Rule 46 of CPC in view of non-compliance of direction issued by this Court under Order 21 Rule 41(3) of CPC?

10. POINT: Admittedly, the present Revision Petitioner obtained a decree from UK Court against respondent Nos. 1 and 2 for a sum of Rs.15,390,115.53 ps and filed the present E.P before the Executing Court for realization of the decretal

amount both for attachment of movable and immovable property and also by attaching the amount lying to the credit of respondent No.2 account with respondent Nos. 3 to 9 and filed the present Petition seeking a direction against respondent Nos. 3 to 9 to send amount and deposit the same to the credit of Execution Petition as respondent No.2 failed to disclose the account details including the amount lying to the credit of the respective accounts maintained with R.3 to 9.

11. The specific relief claimed in the petition is that to pass an Order against the Garnishee under Order 21 Rule 46 and 46-A of CPC directing respondent Nos. 3 to 9 to disclose, by an affidavit, the details of the bank accounts operating in favour of J.Dr.No.2/respondent No.2 herein and attach the sum of respondent No.2 lying with the aforementioned banks to the credit of respondent No.2 while directing the aforementioned banks not to transfer the same to the judgment debtor and pursuant to attachment. Thus, the relief claimed in the petition are three in number, (1) to direct respondent Nos. 3 to 9 to disclose, on affidavit, the details of the bank account operating in favour of respondent No.2; (2) to attach the amount lying to the credit of respondent No.2 with respondent Nos. 3 to 9 banks; and (3) to send the same to the credit of execution petition, to satisfy the Decretal amount.

12. It is brought to the notice of this Court by the learned counsel for petitioner that on 15.10.2015 a memo was filed by

the D.Hr informing the Court about serving of notice on respondent Nos. 3 to 9, but they did not appear either in person or through their counsel to contest the matter and remained *ex parte*. Therefore, the contention of the learned counsel for respondent No.3 to 9 stands to any legal scrutiny since respondent Nos.3 to 9 were set *ex parte* by the Executing Court. Despite service of notice directing respondent Nos. 3 to 9 to disclose the details of the bank account of respondent No.2 by filing an affidavit operating by J.Dr.No.2/respondent No.2, they did not comply the direction and even before this Court, there is no explanation for non-compliance of the Orders issued by the Executing Court.

13. In view of the relief prayed in the present petition, it is the duty of the banks to furnish the details of the bank account of respondent No.2 maintained with respective banks so as to enable the D.Hr/revision petitioner to recover the amount by attachment etc., under Order 21 Rule 46 and 46-A of CPC. Even before this Court, respondent No.7 alone filed Counter. However, respondent No.3 disputed their obligation to disclose the details of respondent No.2 by way of affidavit, no doubt, the banks are entitled to maintain secrecy of the bank accounts. But, when a direction is given by this Court, they are bound to disclose the details of the account of respondent No.2 with the respective banks i.e., R.3 to R.9. Hence, I find that it is a fit case to issue a direction to respondent Nos. 3 to 9 to disclose the bank account details of respondent No.2 with respondent

Nos.3 to 9 with all details including Account Number, nature of account and the amount lying as on the today within a week from today by filing an affidavit before the Executing Court. On furnishing such details, the Executing Court can proceed further under Order 21 Rule 46 and 46-A of CPC.

13. With the above observation, this Civil Revision Petition is allowed directing the respondent Nos. 3 to 9 to disclose the bank account details of respondent No.2 with them with all details including Account Number, nature of account and the amount lying as on the today, within a week from today, by filing an affidavit before the Executing Court. On furnishing such details, the Executing Court can proceed further under Order 21 Rule 46 and 46-A of CPC. No costs.

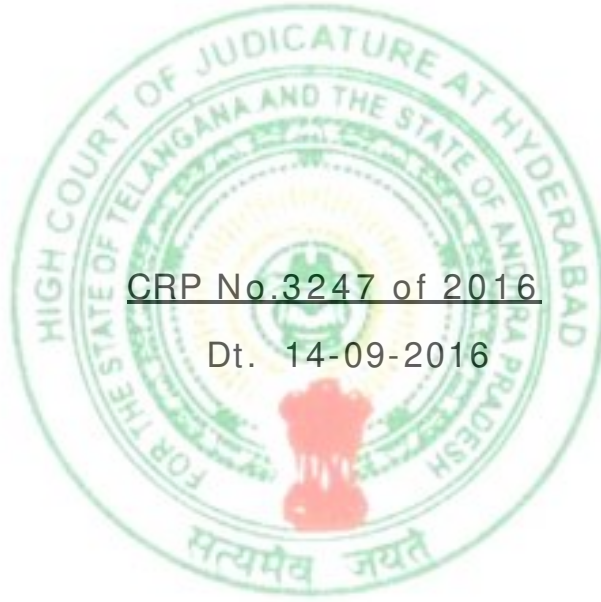
As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 14-09-2016.

eha

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



eha