

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CIVIL REVISION PETITION No.1981 of 2016

ORDER :

The Civil Revision Petition is filed under Article 227 of the Constitution of India by the petitioner/ plaintiff, impugning the order dated 24.02.2016 passed in I.A. No.977 of 2015 in O.S. No.306 of 2013 on the file of Hon'ble Senior Civil Judge at Proddatur for attachment of item No.1 of petition schedule property against respondent/ defendant.

2) No doubt, attachment is different from bringing the property to sale in realisation of the decree debt. What is contemplated while bringing the property to sale is to bring the property to the extent sufficient to satisfy the decree debt under execution where the property is severable and that analogy strictly may not be before judgment. However, the fact remains as observed by the trial Court from the own affidavit of revision petitioner/ plaintiff in seeking attachment before the judgment mentioned that the defendant/ respondent was going to alienate the item No.1 of the schedule property for Rs.40,00,000/- and the suit claim is only for Rs.6,36,685/- and the realisation of the decretal amount along with incidental suit costs and subsequent interest in the event of the plaintiff successful in getting decree for the whole claim, is not difficult.

3) Once such is the conclusion arrived by the trial Court that too when it is not the case that the respondent/ defendant is indebted to several persons of more than Rs.40,00,000/- to seek for attachment of the 2nd item also and thereby there is no ground to interfere with the impugned order by sitting in revision for no illegality much less to the prejudice of the rights of the revision petitioner herein.

4) It is not contended in any of the grounds of the revision much less any material placed before the trial Court to show that item No.1 is already subject matter of any contract of sale or contract for sale by the

defendant. It is thereby left open to the petitioner to file a fresh petition by such showing for which by virtue of this order, earlier order will not operate as *res judicata* much less interdict such right of the petitioner now provided.

5) Accordingly, the revision is disposed of, with the observation that in the event and in future, if the petitioner is able to show that there are other attachments for item No.1 and what are the debts due by the defendant are more than Rs.40,00,000/-, to seek for attachment of other items also, the trial Court to decide the same on its own merits. No order as to costs.

6) Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22.04.2016

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