

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION Nos.2044 & 2403 of 2010

COMMON ORDER:

Since the revision petitioners in both the CRPs are challenging the very same warrant of attachment issued on 18.01.2010 in EP.No.45 of 2010 in OS.No.511 of 1997, both the CRPs are being heard together and disposed of by this common order.

Both the CRPs are filed against the warrant of attachment dated 18.01.2010 issued by the Principal Junior Civil Judge at Kothagudem in EP.No.45 of 2010 in OS.No.511 of 1997, wherein the Court below directed to attach and withhold an amount of Rs.24,801/- from and out of the arrears of salary payable to the revision petitioners/JDrs.

Learned counsel for the petitioners/J.Drs states that the Executing Court has no jurisdiction in view of Clause (3), Rule 31 of the Agency Rules which states that the wages of labourers and domestic servants shall not be liable for attachment or sale.

On the other hand learned counsel for the respondent/D.Hr. states that the CRP itself is not maintainable against warrant of attachment of salary; and that petitioner has to approach the Court below by raising objections. In support of his contention he relied on the order dated 04.07.2016 passed by this Court in CRP.No.2856 of 2016.

A reading of the order in CRP.No.2856/2017 shows that this Court almost in similar circumstances in the said CRP held that no revision lies against a warrant that was issued by the executing court for attachment of salary of the JDr; that a warrant will be issued pursuant to the order passed in the execution petition and if the JDr. has got any grounds to challenge, he can challenge that order only; and that if the JDr. has got any tenable defence, she should approach the executing Court and file her counter by stating her objections.

In view of the above, it is open for the revision petitioners/JDr. to file objections before the Execution Court and the Execution Court by considering the said objections of the petitioners, in accordance with law, shall dispose of the EP within a period of three months from the date of receipt of a copy of this order. Since this Court has already granted interim stay on 04.06.2010 in CRP.No.2044/2010 and on 18.06.2010 in CRP.No.2403/2010, the same shall continue till disposal of EP by the Court below.

Accordingly, both the CRPs are disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER REDDY, J

31.08.2017
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