

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.6292 of 2016

ORDER :

This revision is filed under Section 115 of the Civil Procedure Code, 1908, challenging the order passed by the Senior Civil Judge, Sangareddy in E.P.No.9 of 2014 in O.S.No.328 of 2008, wherein issued warrant of attachment under Order XXI Rule 48 C.P.C. for attachment of salary of the petitioner to an amount of Rs.88,117/- subject to Section 60 C.P.C. to realize the debt due to the respondents.

2. The only contention before this Court is that the petitioner has paid Rs.70,000/- under two receipts issued by Kapil Chit Funds Private Limited dated 20.01.2012 and 21.01.2012 for Rs.35,000/- each and the decree in O.S.No.328 of 2008 was passed on 28.07.2011. Thus, these two receipts were issued subsequent to passing of the decree and there is a reference about suit number in the receipts also. Therefore, these two payments have to be deducted out of the decree debt to be released in the warrant under Order XXI Rule 48 C.P.C., But, these payments were not disclosed by the respondents in the E.P. and without deducting the subsequent payments filed for realization of entire debt. No doubt, the alleged payments are evidenced by document, but they are not certified payments and according to Order XXI Rule 2 C.P.C., where any money payable under a decree of any kind is paid out of Court, or a decree of any kind is otherwise adjusted in whole or in part to the satisfaction of the decree-holder shall certify

such payment or adjustment to the Court whose duty it is to execute the decree, and the Court shall record the same accordingly. Sub Rule 3 of Rule 2 Order XXI C.P.C. created the entire debt to consider such uncertified payments and according to it, a payment was adjusted, which has not been certified or recorded as aforesaid, shall not be recognized by the Court while executing the decree. Therefore, in view of the Sub Rule 3 of Rule 2 Order XXI C.P.C., the un-certified payments evidenced by receipts dated 20.01.2012 and 21.01.2012 shall not be recognized as payment of decretal debt due under the decree in O.S.No.328 of 2008. Therefore, I find no illegality in the order passed by the trial Court. However, liberty is given to the petitioner to take necessary steps before the Executing Court.

3. With the above observation, the revision is dismissed.
4. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

M. SATYANARAYANA MURTHY, J

20th January 2017

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