

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.753 of 2010

ORDER:

The Civil Revision Petition is filed against the order dated 08.07.2008 passed in IA.No.947/2008 in OS.No.219/2008 by the Principal Senior Civil Judge, Kothagudem, restraining the petitioner/respondent No.1 from withdrawing or claiming, and respondents Nos.2 and 3/defendant Nos.2 and 3 from making payment of the amount of Rs.2,00,000/- from and out of the VRS amounts of Rs.4,00,000/- and MMC amounts of Rs.3,00,000/- pertaining to the petitioner/respondent No.1.

Learned counsel for the petitioner submits that the suit amounts were granted towards gratuity which are not attachable and there is exemption under Section 60 of the Civil Procedure Code. He also submits that the petitioner/respondent No.1 filed counter affidavit in the said IA, but without considering the same, the impugned order is passed, which is erroneous. In support of his contention he relied on the Judgment rendered by the Bombay High Court in ***Digamber Yeshwantrao Watane v. Agricultural Produce Market Committee, Achalpur and Others (2004(6) BomCR 678)***.

Though notice is served on the respondents, none appears for the respondents.

From the petition schedule amounts, it is not clear under which head the said amounts were granted to the petitioner. But

the petitioner specifically pleaded in the counter affidavit that the same pertains to gratuity which cannot be attached as there is exemption from attachment under Section 60 of the Civil Procedure Code.

It is to be seen that the order under challenge is an interim order passed in IA.No.947/2008 attaching petition schedule amounts. No final order is passed in the said IA. The said interim attachment order passed in IA.No.947/2008, is in operation from 2008 onwards.

In view of the same, and since IA.No.947/2008 is still pending, Court below is directed to dispose of the said IA by taking the contentions raised by the petitioner herein in the counter affidavit and after giving opportunity of hearing to the petitioner as well as respondents, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, the Civil Revision Petition is disposed of. No order as to costs. As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER REDDY, J

17.08.2017
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