

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2984 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order, dated 31-03-2017 in E.P.No.117 of 2015 in A.B.R.C.R.No.54 of 2012.

2. It is the case of the petitioner that she is only a surety and an arbitration case was filed before the Registrar, but no notice was served on the petitioner. Even after passing of award, no copy of award was served on the petitioner. The 1st respondent filed E.P.No.117 of 2015, but no notice was served on the petitioner till today in the above E.P. However, she received attachment order, dated 31-03-2017. Therefore, the proceedings are vitiated by illegality and prayed to set aside the order of attachment of salary under Order XXI Rule 48 CPC.

3. Heard the learned counsel for the petitioner at the stage of admission.

4. As seen from Form No.19 notice, the salary of the petitioner/J.Dr.No.7 was attached for recovery of an amount of Rs.2,98,832/- in monthly instalment subject to Section 60 CPC and E.P. was posted to 31-03-2017. The Drawing Officer was also directed to deduct the amount and by way of cheque, remit the same to the credit of E.P.No.117 of 2015 in ABRCR No.54 of 2012.

5. The order itself is a notice to the petitioner and E.P. is still pending before the Court and the same was posted to 31-03-2017. Therefore, issuance of an order of attachment of salary under Order XXI Rule 48 CPC is not an irregularity and the petitioner can appear before the Executing Court and defend herself.

6. The other contention is that no notice was served in the arbitration proceedings. But this Court cannot go beyond the decree and decide whether notice was served in the Arbitration Case or not. It is for the petitioner to work out her/his remedies before the appropriate Forum, but not in the present petition. Therefore, the alleged non-service of notice in the Arbitration Case is not a ground to raise the attachment of salary. Hence, I find no grounds to interfere with the order impugned. However, the petitioner is at liberty to contest the E.P. before the Executing Court.

7. With the above liberty, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs. Miscellaneous petitions, if any pending, in this revision shall stand closed.

DATED: 30-06-2017.
Hsd

M.SATYANARAYANA MURTHY, J

