

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No.2675 OF 2012

ORDER:

- 1) This Civil Revision Petition is filed on the ground that the Junior Civil Judge, Kanigiri, Prakasam District, does not have jurisdiction to 'entertain' the EP.No.16 of 2011.
- 2) The grievance of the learned counsel for the revision petitioner/J.Dr. is that the Junior Civil Judge's Court, Kanigiri does not have territorial jurisdiction to entertain the EP and that the EP should be transmitted to the Court where the Judgment Debtor actually resides.
- 3) EP.16 of 2011 is filed in OS.No.127 of 2006, which was admittedly on the file of the Junior Civil Judge, Kanigiri, Prakasam District for attachment of the salary of the J.Dr.
- 4) Heard both the parties.
- 5) Once a decree is passed by the Junior Civil Judge, Kanigiri, execution petition can also be filed in the said Court for realization of the amounts due as per Order XXI, Rule 10 CPC.
- 6) In addition, Order XXI, Rule 48 of the Code of Civil Procedure clearly empowers the Court which has jurisdiction to order the attachment of the salary or allowances of a Government servant or local authority etc. whether the Judgment Debtor or the disbursing officer is or is not within

the local limits of the Court's jurisdiction, subject to Section 60 of CPC.

Order XXI, Rule 48 of the Code of Civil Procedure, 1908 reads as follows;

“48. Attachment of salary or allowances of servant of the Government or railway company or local authority:-

(1) Where the property to be attached is the salary or allowances of a servant of the Government or of a servant of a railway company or local authority or of a servant of a corporation engaged in any trade or industry which is established by a Central, Provincial or State Act, or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), the Court, whether the Judgment-debtor or the disbursing officer is or is not within the local limits of the Courts jurisdiction, may order that the amount shall, subject to the provisions of Section 60, be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and, upon notice of the order to such officer as the appropriate Government may by notification in the Official Gazette appoint in this behalf —

(a) where such salary or allowances are to be disbursed within the local limits to which this Code for the time being extends, the officer or other person whose duty it is to disburse the same shall withhold and remit to the Court the amount due under the order, or the monthly instalments, as the case may be;

b) where such salary or allowances are to be disbursed beyond the said limits, the officer or other person within those limits whose duty it is to instruct the disbursing authority regarding the amount of the salary or allowances to be disbursed shall remit to the Court the amount due under the order, or the monthly instalments, as the case may be, and shall direct the disbursing authority to reduce the aggregate of the amounts from time to time to be disbursed by the aggregate of the amounts from time to time remitted to the Court."

7) Having regard to the aforesaid facts and circumstances, I am of the opinion that the objection raised by the learned counsel for the petitioner is not tenable. There is also force in the contention of the learned counsel for respondent that any dispute about the jurisdiction of the Court to entertain should be raised before the Court below and that the directions in CRP against filing of the EP is not maintainable.

Accordingly, the CRP is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the CRP, shall stand closed.

16.10.2017
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D.V.S.S.SOMAYAJULU, J