

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5701 of 2011

ORDER :

This Civil Revision Petition is filed by the petitioner/defendant No.3, aggrieved by the order of attachment in E.P.No.41 of 2006 in O.S.No.36 of 2002 dated 22.03.2007 passed by the Principal Junior Civil Judge, Eluru.

Heard.

The revision petitioner is defendant No.3 and also one of the three guarantors to defendant No.1, respondent No.1 herein is the plaintiff/deGREE holder, respondent No.2 herein is defendant No.1 and the principal borrower, respondents 3 and 4 herein are defendants Nos.2 and 4 and guarantors in the above suit.

The suit was decreed with joint and several liability of personal decree by the trial Court on 16.10.2003 and became final, even it is *ex parte*, for no any appeal, much less, any application filed to set aside the same, undisputedly, from the revision petition even.

In the execution of the decree covered by E.P.No.41 of 2006, the plaintiff/decreed holder sought only attachment of salary of the revision petitioner/ J.Dr.No.3/ defendant No.3, out of four defendants/ J.Drs. The impugment is without insisting remedy against J.Dr.No.1/ principal borrower, the decree cannot be executed against the guarantors. Leave about if at all joint liability against all guarantors and not even against the sole guarantor of selection by D.Hr. by pick and choose. Law is fairly settled that it is for the D.Hr., to proceed against any of the J.Drs. and it is on satisfaction of the decree, the J.Dr. can proceed against the other joint liability J.Drs. or against the principal borrower, as the case may be and cannot oppose the execution.

Having regard to the above, but for, on payment, to avail such remedy, there is nothing to interfere with the execution against the petitioner/ J.Dr.No.3 is concerned.

Accordingly, the Civil Revision petition is dismissed. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

---

Dr. B. SIVA SANKARA RAO, J

Date:31-10-2017

pab

