

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.5822 OF 2017

DATED : 19.12.2017

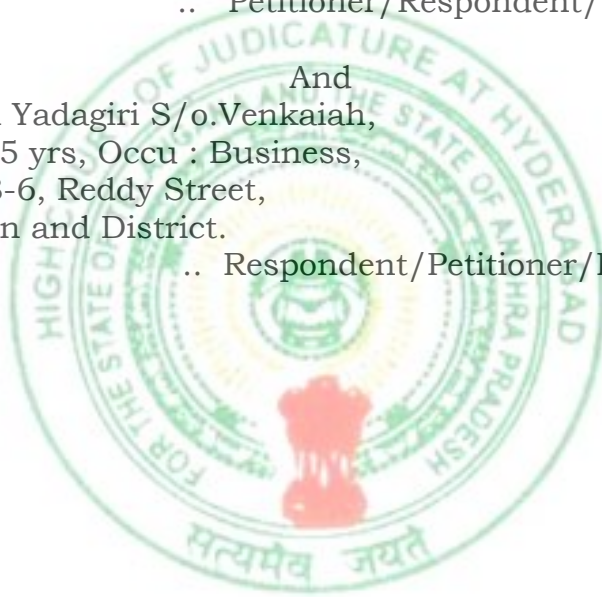
Between :

Mohammed Yousuf Khan S/o.Mohammed Yaseen Khan,
Aged about 55 yrs, Occu : Business,
R/o.H.No.16-7-424, Osmanpura,
Azampura, Chadarghat, Hyderabad,
And also Road Co., Bakery,
H.No.16-7-755/1 & 576,
AL-QUDIRIYA, Chadarghat Main Road,
Hyderabad 500 024

.. Petitioner/Respondent/Defendant

And
Thodupunuri Yadagiri S/o.Venkaiah,
Aged about 75 yrs, Occu : Business,
R/o.H.No.3-8-6, Reddy Street,
Jangaon Town and District.

.. Respondent/Petitioner/Plaintiff



This court made the following :

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ORDER :

The respondent/plaintiff filed suit to grant decree for recovery of Rs.6,92,667/-. In the said suit plaintiff filed I.A.No.291 of 2017 under Order XXXVIII Rule 5 r/w.Sections 136 and 151 of Code of Civil Procedure (C.P.C), praying to order attachment before judgment, in respect of the petition schedule properties. By order dated 28.08.2017 the Court below ordered attachment of the schedule mentioned properties. Aggrieved thereby, this revision is preferred.

2. Learned counsel for the petitioner/defendant contends that procedure as required under Order XXXVIII Rule 5 of C.P.C, is not followed and straight away the order of attachment was passed and the same is *ex-facie* illegal.

3. Learned counsel for the respondent/plaintiff does not dispute that without following the procedure under Order XXXVIII Rule 5 of C.P.C., straight away the order of attachment was made.

4. Having regard to the provision contained in Rule 5 of Order XXXVIII, both counsel agree for remanding I.A.No.291 of 2017 for consideration afresh, by following the procedure as required.

5. Having regard to the said submissions, the order against which this revision is filed, is set aside and the matter is remitted to the Court of Senior Civil Judge, Jangaon, for consideration of I.A.No.291 of 2017 afresh, in accordance with provision under Order XXXVIII Rule 5 of C.P.C. It is always open to the parties to

place the documents before the Court below by seeking leave of the Court.

6. Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this civil revision shall stand closed.

19th December, 2017
Rds

P.NAVEEN RAO,J

