

The Hon'ble Sri Justice M.Satyanarayana Murthy

Civil Revision Petition No.7356 of 2017

Order:

This Petition, under Section 115 of the Civil Procedure Code, 1908 (CPC) is filed questioning the propriety and legality of Order, dated 22.09.2017, in EP.No.62 of 2016 in OS.No.17 of 2011, on the file of the Principal Senior Civil Judge at Khammam (for short 'the lower Court'), whereby the petitioner/JDR was set *ex parte* and an order of attachment of his salary under Order XXI Rule 48 CPC subject to Section 60 CPC was passed.

During the hearing, Mr.MMM.Srinivasa Rao, learned Counsel for the petitioner, has fairly submitted that he filed EA.No.305 of 2017 before the lower Court to set aside the impugned order, dated 22.09.2017; and that while it is pending, he has filed the present Petition for the very same relief.

A perusal of the impugned order goes to show that the petitioner was absent before the lower Court and that the lower Court had no other alternative except to order attachment under Order XXI Rule 48 CPC. Accordingly, the lower Court ordered attachment by setting the petitioner *ex parte*. As the Execution Application filed by the petitioner before the lower Court to set aside the Order, which is impugned in this matter, is pending, this Court cannot exercise its power under Section 115 CPC to grant

the said relief. However, the lower Court is directed to decide EA No.305 of 2017 filed under Order XXI Rule 106 CPC as expeditiously as possible, in any event, not later than two months from the date of receipt of a copy of this order.

With the above direction, the Civil Revision Petition is dismissed. There shall be no order as costs.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

Dt: 29th December, 2017
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(M. Satyanarayana Murthy, J)

