

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.6971 OF 2017

ORDER:

This revision petition is filed under Section 115 of the Code of Civil Procedure questioning the propriety and legality of the order dated 25.10.2017 passed in E.P.No.57 of 2015 in O.S.No.58 of 2010 by the Principal District Judge, Khammam ordering attachment of the schedule property annexed to the execution petition.

The only contention raised before the District Judge is that he is not owner of the property and he has no interest in the schedule property sought to be attached. But the Court considered that the petitioner did not produce any document to establish that he is not the owner of the schedule property and ordered issue of warrant for attachment of the schedule property.

Before this Court, learned counsel for the petitioner reiterated the said contentions and requested this Court to set aside the order passed by the District Judge.

The petitioner challenged the order of attachment by issuing warrant on the ground that when he is not the owner of the schedule property, his rights are not affected and he can never be called as person aggrieved by the order and of course, he is the Judgment Debtor in the said suit. If really he is not owner of the property and somebody's property was attached, the third party is entitled to file a petition under Order 21 Rule 58 C.P.C. and on filing such application, the Court is required to conduct an enquiry as contemplated under CPC like civil suit and dispose of the matter. The order passed by the trial Court cannot be set aside in the absence of any material produced before the Court that the third party is the owner of the property. Therefore, I find no illegality in

the order passed by the trial Court and consequently, the revision petition is liable to be dismissed.

Accordingly, the civil revision petition is dismissed. There shall be no order as to costs.

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

JUSTICE M. SATYANARAYANA MURTHY

15.12.2017
kvrm

