

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1224 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the Order Dt.08.09.2017 in I.A.No.222 of 2017 in O.SNo.256 of 2016 passed by Sub Divisional Magistrate, Mobile Court at Bhadrachalam, ordering attachment for retiral benefits of Sri Kolapudi Amrutha Jaya Rao, the defendant in O.SNo.256 of 2016, while directing the Drawing and Disbursing Officer i.e., Mandal Educational Officer, Aswapuram Mandal, Bhadrachalam District, to retain the amount until further orders.

The main contention of the learned counsel for the petitioner is that entire retiral benefits are not liable for attachment either under Section 60 CPC or even under Section 31 of Agencies Rules in Andhra Pradesh and therefore, the Order passed by the Sub Divisional Magistrate is illegal and irregular.

During hearing, learned counsel for the petitioner would draw the attention of this Court to Rules 30 and 31 of the Agency Rules in support of his contention.

At the stage of admission, I deem it appropriate to issue necessary direction to the Sub Divisional Magistrate, Mobile Court at Bhadrachalam to decide the petition based on the exemptions contained under Rule 31 of Agencies Rules, which are as follows:

- “ (a) by delivery of any property specifically decreed;
(aa) food grains as may, in the opinion of the Court, be necessary for maintenance of the family of a judgment debtor who is a member of scheduled Tribe as defined in Clause (f) of the Andhra Pradesh Scheduled

Areas Land Transfer Regulation, 1959 (Regulation 1 of 1959)
for a period of twelve months:

- (b) by attachment and sale or by sale without attachment of any property; and
- (c) by arrest and detention in prison; and
- (d) appointing a receiver; or; and
- (e) in such other manner as the nature of the relief granted may require."

As the Sub Divisional Magistrate did not advert to the Rules framed under Section 31 of the Agencies Rules and committed an error in passing the impugned Order, the Order passed by the Sub Divisional Magistrate, Mobile Court at Bhadrachalam, is hereby set aside while remanding the matter to the said Court to dispose of the petition afresh keeping in view the exemptions contained under Rule 31 of Agencies Rules within a period of 15 days from the date of receipt of a copy of this Court and in the meanwhile, the Drawing and Disbursing Officer is directed not to release the amount until the Order is passed by the Sub Divisional Magistrate, Mobile Court at Bhadrachalam.

Accordingly, this Civil Revision Petition is allowed setting aside the Order dt,08.09.2017 in I.A.No.222 of 2017 in O.S.No.256 of 2016 passed by Sub Divisional Magistrate, Mobile Court at Bhadrachalam.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 23-02-2018
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