

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NO.1542 OF 2018

ORDER

This civil revision petition under Article 227 of the Constitution arises out of the Docket Order dated 22.02.2018 passed by the learned II Senior Civil Judge, Ranga Reddy District at L.B.Nagar, in IASR No.811 of 2018 in O.S.No.309 of 2018.

The suit was filed by the petitioners herein for recovery of a sum of Rs.9,15,640/- with future interest and in default of payment of the decretal amount, for attachment and sale of the suit schedule properties for realization thereof. IASR No.811 of 2018 was filed therein by the petitioners-plaintiffs seeking attachment before judgment of the suit schedule properties under Order 38 Rule 5 CPC. By the order under revision, the trial Court opined that as the suit schedule properties, attachment of which was sought, were not situated within its territorial jurisdiction, the IASR was not maintainable and accordingly returned it.

Despite service of notice, respondents 1 and 2 herein, the defendants in the suit, did not choose to enter appearance before this Court.

Sri Ali Farooq, learned counsel for the petitioners-plaintiffs, would place reliance on case law in support of his contention that Order 38 Rule 5 read with Section 136 CPC does not bar attachment of properties even if they are situated outside the jurisdiction of the Court in which the suit is pending.

This Court finds merit in the submissions of the learned counsel. Be it noted that the trial Court entertained the suit of the petitioners-plaintiffs and registered the same, but when it came to the interlocutory application, the question of territorial jurisdiction was projected for the purpose of returning the IASR.

In the light of the law laid down by the Supreme Court in RAJENDER SINGH V/ s. RAMDHAR SINGH¹ in the context of Section 136 read with Order 38 Rule 5 CPC, it cannot be doubted that attachment thereunder could also be effected of properties which lie outside the jurisdiction of the Court where the suit is

¹ AIR 2001 SC 2220

pending. This edict of the Supreme Court is a reiteration of the law laid down by a Division Bench of this Court in CHIMANDAS METHURAM V/ s. MESSRS. MANAGER MAHADEVAPPA FIRM². More recently, a learned Judge of this Court followed the same principle in A.K.SARAVANAN V/ s. SURENDER SINGH³.

The trial Court was therefore in error in concluding that merely because the properties sought to be attached lie outside its territorial jurisdiction, attachment thereof could not be sought. The order under revision is accordingly set aside and IASR No.811 of 2018 in O.S.No.309 of 2018 is remitted to the file of the learned II Senior Civil Judge, Ranga Reddy District at L.B.Nagar, for consideration thereof on its own merits and in accordance with law, keeping in mind the provisions of Section 136 read with Order 38 Rule 5 CPC and the case law referred to *supra*. As the trial court unnecessarily drove the petitioners to file this revision before this Court, the IASR shall be taken up expeditiously for hearing and consideration on merits.

Registry is directed to return the original records filed by the petitioners-plaintiffs in this revision.

The civil revision petition is **allowed** accordingly. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

27th APRIL, 2018

Note: Issue C.C. by 01.05.2018
(B/ o) Svv

² AIR 1961 AP 417

³ 2016 (6) ALD 487