

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2086 OF 2017

ORDER:

This revision is preferred under Section 115 of Code of Civil Procedure (for short "C.P.C.") to revise the docket order dated 13.03.2017 passed by the V Senior Civil Judge, City Civil Court, Hyderabad ordering attachment of movable property Under Order XXI Rule 43 of C.P.C.

It is the case of the petitioner that an award was passed by the Arbitrator and later it was made a rule of law and in execution of decree, the respondent M/S Bajjuri Samaiah and Company represented by its Partner filed E.P.No.148 of 2009 before the Senior Civil Judge, City Civil Court, Hyderabad, though the decree was passed at Warangal.

The petitioner raised several contentions regarding territorial jurisdiction and competency of partner, who filed Execution Petition, so also entitlement of the petitioner therein for Rs.40,96,914/-, but without adverting to the various contentions raised by the petitioners herein, the order under challenge was passed.

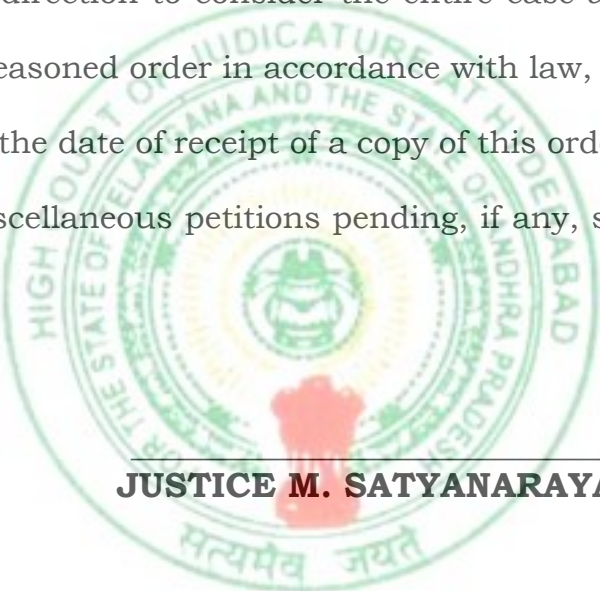
During hearing, Sri Dantu Srinivas, learned counsel for the petitioners and Sri P.Shiv Kumar, learned counsel for the respondent fairly conceded that the order under challenge is not a reasoned order and the Executing Court did not advert to the various contentions raised with regard to territorial jurisdiction etc.

As the order under challenge is not a reasoned order and the same was passed without adverting to the various contentions

raised by the petitioners, I deem it appropriate to set aside the order and remit the matter to the executing Court while directing the Executing Court to decide the amount due based on the calculation memos filed by both the parties and competency of the person, who filed E.P. so also jurisdiction.

In the result, the civil revision petition is allowed, setting aside the docket order dated 13.03.2017 passed in E.P.No.148 of 2009 in O.S.No.125 of 1981 by the V Senior Civil Judge, City Civil Court, Hyderabad while remanding the matter to the executing Court with a direction to consider the entire case afresh and pass appropriate reasoned order in accordance with law, within three (3) months from the date of receipt of a copy of this order. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.



JUSTICE M. SATYANARAYANA MURTHY

23.01.2018
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