

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION NO.1418 OF 2011**

**ORDER:**

This civil revision petition is filed under Section 115 of Code of Civil Procedure (for short "C.P.C.") challenging the order dated 27.01.2011 passed in E.P.No.38 of 2010 in O.S.No.60 of 2008 by the Senior Civil Judge, Bobbili, whereby, the petition filed under Order XXI Rule 52 of C.P.C. was allowed ordering attachment of amounts payable on retirement of Judgment Debtor, which are inclusive of Gratuity etc. for recovery of amount due to a tune of Rs.1,53,513/- and directed the Manager, State Bank of India, Bobbili to withhold the said amount from the account of Judgment Debtor, number 11121823878 of State Bank of India, Bobbili.

Aggrieved by the order passed by the Court below, the present civil revision petition is filed mainly contending that the Stipends and Gratuities are not liable for attachment not only in view of Section 60 of C.P.C. and also in terms of Public Provident Funds Act 1968 (23 of 1968), but the trial Court failed to consider the same.

The contention of the petitioner is that some of the amounts are exempted under Section 60 of C.P.C., but the Court below passed an order of attachment by issuing attachment warrant against the Manager, State Bank of India, to withhold an amount of Rs.1,53,513/- and credit the same to the E.P.No.38 of 2010.

During hearing, learned counsel for the petitioner requested this Court to modify the order passed by the Court below subject to Section 60 of C.P.C.

None appeared for the respondent.

According to the petitioner, the petitioner retired from service and the amount payable towards gratuity and provident fund sought to be attached and the Court below passed the order despite exemption granted under Section 60 of C.P.C. and Public Provident Funds Act, 1968 and payment of Gratuity Act.

As per Section 60 (1) (g) of C.P.C., there is a prohibition on attaching the amounts i.e. Stipends and Gratuities allowed to Pensioners of the Government (or of a local authority or if any other employer), or payable out of any service family pension fund. Section 60 (1) (k-a) of C.P.C. also prohibits for attachment of all deposits and other sums in or derived from any fund to which the Public Provident Funds Act 1968 (23 of 1968), for the time being applies, in so far as they are declared by the said Act are not to be liable to attachment.

Thus, the amount payable towards gratuity and provident fund are exempted from attachment either in execution of decree or in any proceedings before passing decree. The trial Court did not consider the same and committed error in passing the impugned order. Therefore, the attachment ordered by the Executing Court is modified directing the Manager, State Bank of India, Bobbili to attach the amount payable to the Judgment Debtor subject to Section 60 of C.P.C. and provisions of Public Provident Funds Act and Payment of Gratuity Act.

With the above modification, the civil revision petition is partly allowed. No costs.

Consequently, miscellaneous applications pending if any, shall also stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

06.03.2018  
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