

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

CIVIL REVISION PETITION NO.3666 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This revision is filed by the fourth respondent-judgment debtor, under Section 115 of the Code of Civil Procedure (CPC), aggrieved by the order passed in E.A.No.259 of 2018 in E.P.No.84 of 2018 in Arb.No.332 of 2014 dated 23.04.2018.

E.A.No.259 of 2018 in E.P.No.84 of 2018 was filed by the respondent herein to direct the salary disbursing Officer/Garnishee of the fourth judgment-debtor to withhold Rs.5,28,626/- from the retirement benefits payable to the fourth judgment debtor, i.e. the Head Master, O/o.Upper Primary School, Perepally, Chityal Mandal, Nalgonda District, such as leave encashment and other benefits (except provident fund and gratuity), under Order XXI Rule 46(i) CPC.

By the order under revision, the IV Senior Civil Judge, City Civil Court, Hyderabad ordered that the leave encashment and terminal benefits, if any, of fourth judgment-debtor, for an extent of Rs.5,28,626/-, be withheld.

Section 60 CPC relates to the property liable to attachment and sale in execution of a decree. Under the proviso to Section 60(1), the properties, referred to in clauses (a) to (p) thereunder, shall not be liable to such attachment or sale. Consequently, provident fund, gratuity and other benefits, which fall within the

ambit of clauses (a) to (p) of the proviso to Section 60(1) CPC could not have been directed to be attached by the Court below.

Sri P.Durga Prasad, learned counsel for the respondents, would fairly state that the Court below had passed an order, though no such relief was sought for by the respondents in the arbitration application.

We consider it appropriate, therefore, to modify the order passed by the Court below and direct that the amounts liable to be withheld shall exclude those amounts referred to in clauses (a) to (p) of the proviso to Section 60(1) CPC. Attachment of the amounts, falling within the ambit of the proviso to Section 60 (1) CPC, shall stand lifted; and the revision petitioner shall be entitled to receive the said amount in accordance with law.

The Civil Revision Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

6th August 2018
RRB