

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1635 OF 2016

ORDER:

This Civil Revision Petition is filed under Section 115 of C.P.C. assailing the order dated 14.03.2016 passed in E.A.No.7 of 2015 in E.P.No.79 of 2012 in O.S.No.1627 of 2010 on the file of the Court of II Senior Civil Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the first respondents has filed I.A.No.551 of 2010 in O.S.No.1627 of 2010 to direct the garnishee i.e., respondent No.7 therein to withhold the payment to the tune of Rs.2,50,000/- and not to pay the same to the legal representatives of late R.Narsa Reddy. The trial Court along with the suit allowed the petition directing respondent No.7 to withhold an amount of Rs.1,44,000/-. After passing of the decree, the first respondent has filed E.P.No.79 of 2012 in O.S.No.1627 of 2010. The first respondent has also filed E.A.No.7 of 2015 to attach the salary of petitioner (respondent No.7) on the ground that he has not complied with the orders passed on 26.03.2012 in I.A.No.551 of 2010. The petitioner filed a counter in E.A.No.7 of 2015 taking various defences. One of the contentions raised by the petitioner is that in view of Section 60 of C.P.C., he cannot withhold the amount. A perusal of the order clearly reveals that the Court has not addressed whether the amount withheld by the petitioner will fall within the ambit of Section 60 of C.P.C. or not. The trial Court ought to have addressed the above issue while disposing of E.A.No.7 of 2015.

4. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to set aside the order dated 14.03.2016 passed in E.A.No.7 of 2015 in E.P.No.79 of 2012 in O.S.No.1627 of 2010 on the file of the Court of II Senior Civil Judge, City Civil Court, Hyderabad, and remand the matter to the Executing Court.

5. In the result, the Civil Revision Petition is allowed, setting aside the order dated 14.03.2016 passed in E.A.No.7 of 2015 in E.P.No.79 of 2012 in O.S.No.1627 of 2010 on the file of the Court of II Senior Civil Judge, City Civil Court, Hyderabad, and remanding the matter to the Executing Court. The Executing Court is directed to pass a fresh order keeping in mind the scope of Section 60 of C.P.C. There shall be no order as to costs.

6. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

Date: 22.11.2018
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T.SUNIL CHOWDARY, J