

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No.4107 of 2018

ORDER:

This Civil Revision Petition is filed questioning the docket order, dated 31.07.2017, passed by the learned Senior Civil Judge, Nizamabad in E.A.No.156 of 2016 in E.P.No.50 of 2015 in O.S.No.201 of 2008.

E.A.No.156 of 2016 is a claim petition filed under Order XXI Rule 58 C.P.C. requesting the executing Court to raise the attachment ordered in E.P.No.50 of 2015 *vide* order, dated 06.09.2016. The executing Court dismissed E.A.No.156 of 2016 in view of the order passed in E.A.No.158 of 2016 filed by judgment debtor No.4 to set aside the attachment. The Executing Court dismissed E.A.No.158 of 2016 on noticing that the attachment of the immovables has not been physically effected. As a consequence and a corollary to that, E.A.No.156 of 2016 was dismissed as the attachment was not effected.

Today, Sri K.Venumadhav, learned counsel for the petitioner fairly conceded that the attachment was not physically effected even as on date.

As the attachment is not physically effected as on date, the question of filing a claim petition does not arise. Order XXI Rule 58 C.P.C. comes into play when there is an attachment of the property and a party has a claim over the said attachment. In

these circumstances, this Court is of the opinion that as the attachment is not effected, the claim petition does not lie and consequently, there is no infirmity in the docket order, dated 31.07.2017, which is under challenge in this revision.

Hence, the Civil Revision Petition is dismissed. Needless to say that if the property is attached and the petitioner has a claim over the same, she can pursue her remedies as per law.

Miscellaneous petitions, if any, pending shall stand dismissed. There shall be no order as to costs.

D.V.S.S.SOMAYAJULU,J

Dt:23.11.2018

kdl



