

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

**CIVIL REVISION PETITION Nos.5667, 5669, 5688, 5695, 5704,
5731, 5732, 5734, 5750, 5758, 5799, 5816 AND 5823 OF 2018**

COMMON ORDER:

The revision petitioners are the decree holders and the respondent is the judgment debtor, who is no other than Special Deputy Collector, Land Acquisition, Telugu Ganga Project, Nellore.

2. Pursuant to the interim order in I.A.No.405 of 2016 in the pending reference under Section 18 of the Land Acquisition Act in L.A.O.P.No.8 of 2015, for non-payment of the award amount determined therein by the learned VII Additional District Judge, Gudur, E.P.Nos.68 and 63 of 2017 on 08.08.2017, E.P.Nos.82, 76 and 81 of 2017 on 09.08.2017, E.P.Nos.78 and 85 of 2017 on 10.08.2017 and E.P.Nos.94, 121, 118, 107, 117 and 106 of 2017 on 11.08.2017 are filed under Order XXI Rule 11 read with Rule 46 CPC with a prayer to attach the amount lying in the online Account No.10889525262 of the Sub-Registrar, Gudur, relating to stamp duty collection of the Department of Stamps and Registration of the Government of A.P. at the State Bank of India of Gudur Branch of SPSR Nellore District to the extent to satisfy the amount claimed in the Execution Petitions by sending the same if any to the credit of the execution proceedings to satisfy to the extent of the interim award concerned. It is on contest, by the impugned orders, dated 29.06.2018, the learned VII Additional District Judge, Gudur, dismissed the petitions with observation that the interim award passed

in I.A.No.405 of 2016, dated 24.04.2017, is not a decree within the meaning of Section 2(2) CPC nor the person executing it is a decree holder within the meaning of Section 2(3) CPC and thereby it cannot be said the decree holder obtained any decree for execution to file application and thereby the Execution Petitions are not maintainable and not entitled to attach the amount lying as sought for.

3. The Court below missed the scope of Order XII CPC particularly Order XII Rule 6 CPC of passing judgment and drafting of decree therefrom based on admissions and once that is the judgment from which the decree to be drawn up within the meaning of Section 2 (2) CPC and 2 (9) CPC, it went wrong in saying the interim decree passed is as if not a decree within the meaning of Section 2 (2) CPC. Thus the dismissal order is basically unsustainable.

4. No doubt, it is one of the contentions in the course of hearing the revisions that Order XXI Rule 46 including Clause (3) has no application. It is made clear a wrong quoting of provision no way fatal once it is Order XXI Rule 52 CPC that is applicable.

5. Having regard to the above, these Civil Revision Petitions are allowed and the impugned dismissal orders are set aside and E.P.Nos.68, 94, 82, 78, 63, 85, 76, 121, 81, 118, 107, 117 and 106 of 2017 are restored to the file of learned VII Additional District Judge, Gudur, with a direction to enquire into the matter by passing necessary orders. The Court below shall endeavour to make early disposal,

subject to other priorities. The attachment if at all vacated is to be revived forthwith by fresh order of attachment. The revision petitioners are given liberty to file order copy before the Court below with memo to comply with the direction by the Court below.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

October 05, 2018.
MD

DR. B. SIVA SANKARA RAO, J

