

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.5857 of 2018

ORDER:

This Civil Revision Petition is filed, challenging the impugned order dated 29.06.2018, passed in E.P.No.112 of 2017 in I.A.No. 405 of 2016 in LAOP. No. 8 of 2015, on the file of the Hon'ble VII Additional District Judge, Gudur, Nellore District.

2. The petitioner is the decree holder. He has filed an Execution Petition under Order XXI Rule 46 of CPC for attachment of amount lying in the on-line account of Sub-Registrar, Gudur relating to Stamp duty collection at State Bank of India, Gudur Main Branch for realization of decree.

3. Heard the learned counsel for the petitioner and the respondent.

4. The learned counsel for the petitioner submits that the Execution Petition is filed under Order XXI Rule 46 of CPC for attachment of amount, lying in the Sub-Registrar's Office, Gudur. The trial Court dismissed the Execution Petition on the ground that the attachment cannot be ordered under Order XX1 Rule 46 of CPC. Learned counsel for the petitioner further submits that as per Order XXI Rule 52 of CPC, the amounts lying with the Court or Public Officer can be attached. The learned Counsel also placed reliance on orders passed in Civil Revision Petition No. 5871 of 2018, in a similar case, wherein this Court has observed that if the Order XXI Rule 46 of CPC 1908 is not applicable in view of the provisions under Order XXI Rule 52 of the Code, the Trial Court could have granted relief and on that ground this Court has set aside the orders passed by the Trial Court.

5. In view of the observations made in the above judgment, the attachment can be effected under order XXI Rule 52 to the amount lying to the Sub Registrar. Therefore, the order dated 29.06.2018 passed by the Trial Court in EP No. 112 of 2017 in I.A.No.405 of 2016 in LAOP No.8 of 2015 on the file of the Hon'ble VII Additional District Judge, Gudur is not in accordance with the law and as such it is set aside. The Execution Petition filed by the petitioner shall be restored to file and further proceedings may take place in the Execution.

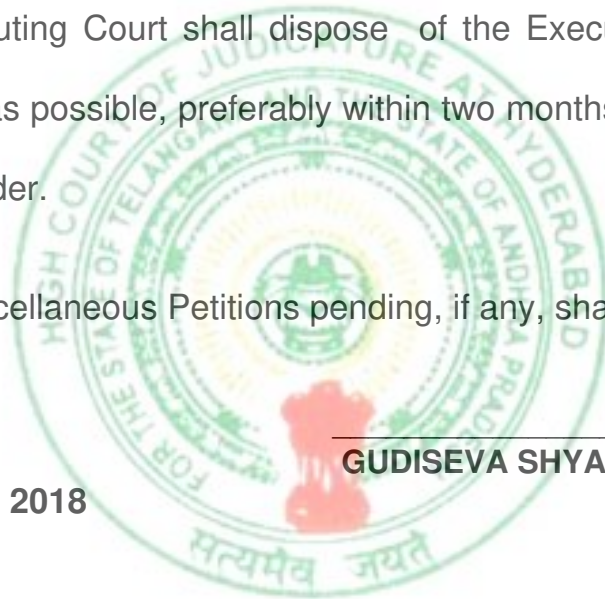
6. With these observations, this Civil Revision Petition is disposed of. The Executing Court shall dispose of the Execution Petition as expeditiously as possible, preferably within two months from the date of copy of this order.

The Miscellaneous Petitions pending, if any, shall stand closed.

6th December, 2018

JR.

GUDISEVA SHYAM PRASAD, J



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