

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**CIVIL REVISION PETITION No.5985 of 2018**

**ORDER:**

This civil revision petition, under Section 115 of the Code of Civil Procedure, 1908, is filed by the JDrs 2 to 4, being aggrieved by the warrants of attachment issued for attachments of their respective salaries mentioning therein the whole of the amount due to the decree holder/DHr, which is said to be Rs.1,35,669/-, as is evident from one of the copies of the warrants placed on record.

**2.** I have heard the submissions of Sri *Y.Nagaiah*, learned counsel appearing for the revision petitioners/JDrs 2 to 4; and of Sri *K.Maheswara Rao*, learned counsel appearing for the 1<sup>st</sup> respondent/DHr. It is represented that the 2<sup>nd</sup> respondent, who is the first judgment debtor/principal debtor, is not a necessary party. I have perused the material record.

**3.** The grievance of the JDrs 2 to 4 is as follows: 'They are the guarantors. They are Government employees. They are working as Teachers. The first judgment debtor is a solvent person. He is the principal debtor. The DHr is not proceeding against the first judgment debtor as he is not a Government employee. The whole of the amount due under the decree is Rs.1,35,669/-. The said amount is also mentioned in the warrants of attachment issued against the salaries of these JDrs. In the execution petition, when attachments of salaries of these JDrs were sought, the Court below attached their salaries and in the respective warrants, the entire amount of Rs.1,35,669/- was shown instead of showing a 1/3<sup>rd</sup> amount each by equally distributing the entire amount due to the

decree holder. The Court below ought to have ensured that only a 1/3<sup>rd</sup> of the amount each should have been mentioned in the warrants of attachments issued against the salaries of the JDrs 2 to 4. In that view of the matter, the present revision is filed requesting to direct the Court below to issue revised warrants of attachment accordingly after distributing the total amount due to the decree holder equally amongst the three guarantors.'

4. Learned counsel for the 1<sup>st</sup> respondent/DHr submits as follows: - 'Since the JDrs 2 to 4 are salaried employees, the EP is filed for attachment of their salaries. As per law, the decree holder is entitled to proceed against each guarantor for recovery of the entire decree debt. In the event the entire amount due to the DHr is received by the Court below pursuant to the respective attachment warrants served on the garnishees of the JDrs 2 to 4, the further recoveries from the salaries of the JDrs 2 to 4 would be stopped by the Court below and hence, mere mentioning of the entire amount in the respective warrants of attachment does not cause any prejudice to the JDrs 2 to 4.'

5. Having regard to the facts and submissions, this Court is of the considered view that keeping in view the interests of both parties, this civil revision petition can be disposed of by passing an appropriate order.

6. In the result, the Civil Revision Petition is allowed in part. It is made clear that on receiving from the garnishees of the JDrs 2 to 4, the attached portions of the amounts from the salaries of the JDrs 2 to 4, and on the executing Court finding that the total amount thus received by the Court would be sufficient for recording full

satisfaction of the decree, it shall take steps forthwith, and inform the garnishees of the respective JDrs 2 to 4 not to further recover any sums from the salaries of the JDrs 2 to 4. Be it noted that the JDrs 2 to 4 are always having liberty to make a request to the Executing Court to stop further recoveries, the moment the entire decree amount stands realized.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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**M.SEETHARAMA MURTI, J**

Date: 6<sup>th</sup> November, 2018

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