

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.6738 of 2018

ORDER:

This Civil Revision Petition is filed by Judgment Debtor aggrieved by the order dated 8.10.2018 in E.P.No.89 of 2017 in O.S.No.85 of 2005 passed by the Senior Civil Judge, Bhimavaram whereunder the Execution Court over ruled the objections raised by the Judgment Debtor and posted the E.P. for settlement of terms. The Decree Holder filed petition under Order XXI Rules 64 to 66 C.P.C. to conduct sale of the E.P. schedule property for realization of the decree amount. The JDR appeared and filed counter affidavit, *inter alia*, contending that the particulars of the E.P. schedule property and calculations are not correct; the JDR has no salable right; there are several attachments over the E.P. schedule property and therefore, the E.P., is not maintainable. The Execution Court considering the objections taken by the Judgment Debtor observed that the E.P. schedule property was, in fact, attached in I.A.No.430 of 2005 in O.S.No.85 of 2004; as per Amin's report attachment before Judgment was effected on 7.4.2005 and subsequently neither the JDR nor any rival claimants filed any petitions against the attachment in I.A.No.430 of 2005 and subsequently, the DHR obtained the decree on 29.9.2008, and in that back ground, the objections of the Judgment Debtor cannot be sustained. The Execution Court, accordingly, over ruled the objections and posted the matter for

3. As can be seen from the impugned order, the attachment was not made for the first time in the E.P. On the other hand attachment before Judgment was effected on 7.4.2005 and subsequently decree holder obtained the decree on 29.9.2008. In the interregnum period, no objection was filed either by the Judgment Debtor or some third party claiming right over the attached property. Therefore, the contention of the JDR now stating that he has no salable interest, does not appear to be true. So far as the other objections regarding the correctness of E.P. Schedule particulars and calculations are concerned, the J.D.R., has not filed any material showing the correct particulars and boundaries. Therefore, that objection also is untenable.

4. Accordingly, the C.R.P. is dismissed. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 21/12/2018

slk

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