

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.7369 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful third party/claim petitioner, is directed against the order, dated 14.11.2017, of the learned Senior Civil Judge, Miryalaguda, passed in E.A.No.142 of 2012 in E.P.No.19 of 2012 in O.S.No.144 of 2007 filed under Order XXXVIII Rule 8 read with Section 151 CPC requesting to allow the claim of the petitioner and vacate the attachment order, dated 22.02.2012, by raising attachment against the plaint schedule properties and award costs.

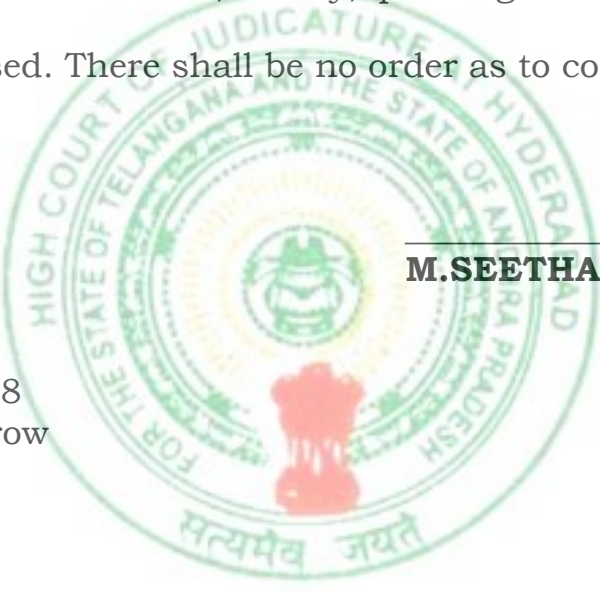
Learned counsel for the claim petitioner – revision petitioner, at the hearing, would submit that as per the contents of the Execution Petition, the suit was decreed, on 03.08.2011, and that from the averments in the claim petition, it appears that attachment order was passed on 22.02.2012 and that attachment was affected on 22.03.2012, and that the claim petition obviously is filed mentioning wrong provision of law and that in view of the facts appearing from the record, the appropriate remedy would have been an appeal instead of the present revision petition.

I have perused the material record and given earnest consideration for the submissions. As per the submissions made and material record, it is discernible that claim petition was filed on the execution side by mentioning the wrong provision of law, however, requesting to raise the attachment against the property of the claim petitioner *inter alia* claiming that the claim petitioner is

the owner of the property. On merits, the said claim petition was dismissed. In the above stated facts and circumstances, in the considered view of this Court, an appeal would lie against the impugned order but not the present revision.

In the result, without going into the merits of the matter, the Civil Revision Petition is dismissed as not maintainable, however, reserving liberty to the claim petitioner – revision petitioner to approach the appropriate forum by filing appropriate proceedings, which the law permits.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



M.SEETHARAMA MURTI, J

Date:25.01.2018
Note:CC tomorrow
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