

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.530 OF 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India assailing the order dt. 23.11.2018 in EA.No.203 of 2018 in EP.No.344 of 2011 in OS.No.657 of 2007 of the Principal Senior Civil Judge, Warangal.

2. Petitioner is 3rd defendant in the said suit, which was decreed on 02.12.2010 for a sum of Rs.1,45,155/- with interest thereon @ 12% per annum from the date of suit till date of decree and thereafter @ 6% per annum from the date of decree till realization with costs of Rs.10,688/-.

3. There is no challenge to the decree by way of appeal and it became final.

4. Thereafter, the 1st respondent/DHr filed EP.No.344 of 2011 seeking attachment of the salary of the petitioner, who was a Typist in Zilla Praja Parishad, Warangal.

5. By order dt. 05.06.2018 the said EP was ordered and attachment was affected.

6. The petitioner filed EA.No.203 of 2018 to raise the attachment contending that the attachment of the salary is affecting his livelihood and the order be modified and the attachment be raised. He further contended that other JDrs had sufficient assets and the amounts be recovered from them.

7. By order dt. 23.11.2018 the Court below rejected the said application. It observed that since the decree was passed jointly

against all the defendants including the petitioner and since the petitioner is one of the guarantors, the Executing Court can proceed to attach his salary and no case was made out to raise the attachment.

8. Challenging the same, the Revision is filed.

9. Counsel for petitioner reiterated that respondents 2 & 3 have ample assets from which the recovery can be effected and that his salary cannot be attached.

10. Admittedly petitioner was a guarantor to the loan borrowed by respondents 2 & 3 and the decree was passed jointly against all of them. The decree has attained finality because there was no appeal filed challenging it. The liability of the petitioner as a guarantor would be co-extensive with that of respondents 2 & 3. Therefore petitioner cannot contend that the decree holder should proceed against respondents 2 & 3 first and that they cannot recover any amounts from him by attachment of his salary.

11. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

12. Accordingly, CRP fails and is dismissed. No costs.

13. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

M.S.RAMACHANDRA RAO, J

Date: 11th March, 2019
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44**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO****CIVIL REVISION PETITION No.530 OF 2019**Date: 11th March, 2019

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