

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1712 of 2019

Date: 24.07.2019

Between:

Sudanala Ramesh.

... Petitioner/J.Dr.No.4

And

M/s. Shriram Chits Pvt. Ltd,
Rep. by its authorized signatory
Kothagudem
and others.

...Respondents

Counsel for the Petitioner : Sri Pulla Rao Yellanki

Counsel for the Respondents : ---

The Court made the following:

ORDER: (Per Hon'ble Dr. Justice Shameem Akther)

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/Judgment Debtor No.4, challenging the order, dated 12.03.2019, passed in E.P.No.38 of 2019 in Arbitration Case No.492 of 2014, by the Principal Senior Civil Judge, Kothagudem, whereby, the Court below ordered attachment of salary of the petitioner/J.Dr.No.4 to realize his share of Rs.1,92,873/-. As per the E.P, amount due is Rs.5,78,619/-.

2) Heard arguments of Sri Pulla Rao Yellanki, learned counsel for the petitioner and perused the record. This Civil Revision Petition is disposed of at the stage of admission, as this Court finds no reason to order notice to the respondents.

3) Learned counsel for the revision petitioner/J.Dr.No.4 would contend that the impugned order is contrary to law and facts of the case and without jurisdiction. The Court below passed the impugned order without providing an opportunity to the petitioner/J.Dr.No.4 to putforth his plea. The petitioner/J.Dr.No.4 stood as surety to the 2nd respondent/J.Dr.No.1, who is a successful bidder in a chit transaction of the 1st respondent/ Decree Holder. Several deductions are being made from the salary of the petitioner/J.Dr.No.4. Learned counsel would further contend that the petitioner/J.Dr.No.4 has to maintain the six family members depending upon him and he has no other source of income except his salary. Deduction from the salary is being made by virtue of the impugned order, which is against the mandate under Section 60 of C.P.C. The attachment made so far to the tune

of Rs.1,92,873/- from the salary of the petitioner/J.Dr.No.4, is illegal and ultimately, prayed to set aside the impugned order.

4) In view of above submissions, the point that arises for determination is:

“Whether the impugned order dated 12.03.2019 passed in E.P.No.38 of 2019 in Arbitration Case No.492 of 2014 by the Principal Senior Civil Judge, Kothagudem, is liable to be set aside?”

5) **POINT:** Admittedly, the revision petitioner is the Judgment Debtor No.4 in E.P.No.38 of 2019 in Arbitration Case No.492 of 2014 on the file of Principal Senior Civil Judge, Kothagudem. The Court below passed the impugned order dated 12.03.2019 pursuant to the E.P. filed by the decree holder, seeking to realise an amount of Rs.5,78,619/- from the judgment debtors, including the revision petitioner/J.Dr.No.4. The Court below sought to realise an amount of Rs.1,92,873/- from the salary of the revision petitioner/J.Dr.No.4 by way of impugned order dated 12.03.2019 i.e, by deducting monthly instalments at the rate of 1/3rd of the excess amount over and above Rs.1,000/- of his salary, subject to Section 60 of C.P.C. As per Order 21 Rule 22 of C.P.C, since the E.P was filed within two years from the date of decree i.e, 28.09.2018, the Court below is justified in passing the impugned *ex parte* order of attachment of salary of the revision petitioner/ J.Dr.No.4. If the petitioner is aggrieved by the impugned order of attachment of his salary, he can approach the Execution Court in accordance with law.

6) Accordingly, the Civil Revision Petition is devoid of merits and the same is hereby dismissed. However, it is open for the revision petitioner/J.Dr.No.4 to work out the remedies available to him under law.

Pending miscellaneous petitions, if any, shall also stand closed.

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

Date: 24.07.2019

scs

