

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2965 OF 2019

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908, is filed by the revision petitioner/Judgment Debtor aggrieved by the order, dated 01.11.2019, passed in E.P.No.69 of 2017 in O.S.No.27 of 2010 by the Senior Civil Judge, Gadwal, wherein the Court below has allowed the subject E.P. filed by the respondent/Decree Holder by issuing warrant of attachment of salary of the revision petitioner/Judgment Debtor as per Section 60 C.P.C. to the DDO on payment of process.

2. Heard learned counsel for the revision petitioner/Judgment Debtor and perused the record.

3. Learned counsel for the revision petitioner/Judgment Debtor would submit that the decree, dated 18.01.2012, passed in the subject Suit was an *ex parte* decree. The revision petitioner/Judgment Debtor filed an application seeking to set aside the said *ex parte* decree with a delay application and the same are pending. The Executing Court passed the impugned attachment order, without advertent to Section 60 C.P.C. The impugned order is erroneous and ultimately, prayed to set aside the same by allowing the Civil Revision Petition.

4. It is evident from the record that the impugned order was passed, on contest, in terms of Section 60 C.P.C. The decree,

dated 18.01.2012, is subsisting against the revision petitioner/Judgment Debtor. Under these circumstances, it cannot be said that the execution proceedings cannot be carried out against the revision petitioner/Judgment Debtor. Since the impugned order of attachment of salary is in terms of Section 60 C.P.C., the same cannot be faulted. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed at the stage of admission.

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

December 12, 2019.
MD

Dr. SHAMEEM AKTHER, J

