



Appln.No.3160 of 2024
in E.P.No.105 of 2023

K.KUMARESH BABU,J.

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This application has been filed to raise the order of attachment passed in E.P.No.105 of 2023 dated 26.04.2024.

2. Heard Mr.B.Arvind Srevatsa, learned counsel for Ms.A.Hinduja Havals, learned counsel for the applicant and Mr.Gawtham C.Raman, learned counsel for M/s.Raman and Associates appearing on behalf of the first respondent.

3. The learned counsel for the applicant would submit that the applicant is a third party to the entire proceedings and by orders of this court the property belonging to her had been attached. He would submit that the applicant was an estwhile partner in the third respondent partnership firm and the applicant had retired from the partnership as early as on 29.12.2021 and a compromise decree had been passed and the said compromise had been entered between the respondents only in the year 2023. The applicant has nothing to do with the film “Samuthirakani in Public” and therefore, he would submit that the property belonging to the applicant could not be attached by this Court.



4. He would further submit that the applicant is not a party to the suit and therefore, the order passed in the Execution Petition cannot be sustained as no orders could be passed against the third party. Hence, he would seek this Court to raise the order of attachment.

5. Countering his arguments Mr.Gawtham C.Raman, learned counsel appearing for the first respondent/ Decree Holder would contend that the applicant herein was a partner during the transaction that was entered between the first and third respondent. The second respondent and the applicant were partners at that point of time and no notice of resignation was made by the applicant. That apart, no acknowledgment from the first respondent eschewing the liability of the applicant was made.

6. He would further submit that when the first respondent had acknowledged the liability of the debt that was due when the applicant was a partner, even the subsequent resignation or reconstitution of the partnership firm cannot eschew the liability of an individual who was the partner of the firm when the liability was agreed. He would also rely upon the judgment of the Hon'ble Supreme court in the case of ***Syndicate Bank Vs. R.S.R.Engineering works and others*** reported in ***2006 (6) SCC 265*** to support his contention and therefore would seek this Court to dismiss the application.



7. I have considered the submissions made by the learned counsel appearing on either side.

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8. It is not disputed by the applicant that at that relevant point of time when the first and third respondents had entered into an agreement of which the liability had raised, the applicant was a partner. In such circumstances, it would be useful to analyse the judgment relied upon by the learned counsel for the first respondent by the Hon'ble Apex Court reported in 2006 (6) SCC 265. It had held that any partner even though had retired from the partnership even in respect of a public notice, the liabilities that arose prior to the so-called resignation or dissolution of the firm cannot be altered. It had also further held that such retired partner cannot avail the Rule of estoppel even against the third party who makes the claim of such liability even if they had knowledge that the partner had retired from the partnership. The only exclusion that had been covered in the said judgment was that if such third party had subsequently entered a fresh agreement with the newly constituted firm for the liability when the erstwhile partner retires, then such third party cannot make the erstwhile partner liable for the debts.

9. In view of the above categorical exposition of law by the Hon'ble Apex Court, I do not find any merits in the application and accordingly, the same is dismissed.



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Appln.No.3160 of 2



24.10.2024

K.KUMARESH BABU,J.

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Appln.No.3160 of 2024
in E.P.No.105 of 2023



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Appln.No.3160 of 2024



24.10.2024