

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

THURSDAY, THE THIRTHIETH DAY OF JUNE  
TWO THOUSAND AND ELEVEN

PRESENT

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

**CIVIL REVISION PETITION Nos.1472 and 1571 of 2003**

**CRP.No.1472 of 2003**

**BETWEEN**

K.S. Naidu and another.

**... PETITIONERS**

**AND**

S.R. Chit Funds Pvt. Ltd and others

**...RESPONDENTS**

**CRP.No.1571 of 2003**

**BETWEEN**

S. Hari Babu.

**... PETITIONER**

**AND**

S.R. Chit Funds Pvt. Ltd and others

**...RESPONDENTS**

**Counsel for the Petitioners : MR. KARRI SURYANARAYANA**

**Counsel for the Respondents: MR. V. RAGHU**

**The Court made the following:**

**COMMON ORDER:**

Two petitioners in CRP.No.1472 of 2003 and the sole petitioner in CRP.No.1571 of 2003 are all judgment debtors in EP.No.368 of 2002 in O.S.No.233 of 1999 pending before the Junior Civil Judge, West and South, Ranga Reddy District.

2. The first respondent obtained a decree for recovery of amount against five defendants, which includes the petitioners referred to above, who were arrayed as defendants 3, 4 and 5 in the said suit. The first respondent filed the aforesaid execution petition before the executing Court and sought attachment of salaries of the petitioners in both the revision petitions, referred to above. The order of the executing Court directing attachment was questioned in these revisions and this Court granted interim stay for a limited period in CRP.No.1472 of 2003 but later it was extended for a period of six weeks. In CRP.No.1571 of 2003 there was an interim order of this Court dated 15.04.2003 directing stay subject to deposit of Rs.5,000/- but it appears that the said order was not complied with.

3. In any case, when these revision petitions are listed for hearing, the learned counsel for the petitioners states that the proceedings in execution taken against the guarantors, who are petitioners, is not justified, as the decree holder has not proceeded against the principal borrower. The aforesaid contention is liable to be rejected on the face of it inasmuch as it is prerogative of the decree holder to proceed against the principal borrower or the guarantor, as he deems appropriate but no restriction can be placed on the decree holder that he should first proceed against the principal borrower and only after exhausting the same, he should proceed against the guarantor.

This legal position is settled long back and the petitioners' contention does not merit acceptance.

4. However, since the executing Court had passed the attachment order way back in 2002, it would not be appropriate to give effect to it straightaway at this distance of time. Hence, the attachment order shall not be given effect to if each of the petitioners in both the revision petitions deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each to the credit of the execution petition, which is subject matter of the revision petitions, within four (4) weeks from today and showing cause before the executing Court as to why further attachment of their salaries should not be made in order to satisfy the EP amount. On depositing the amount, as aforesaid, the executing Court shall give opportunity to both sides and pass afresh orders with respect to attachment or otherwise in the execution petition in accordance with law. In the event of default in depositing the amount, the executing Court shall be free to execute the attachment order impugned herein and in the event of compliance of the conditions, the executing Court shall not enforce the attachment orders impugned herein but shall pass appropriate fresh orders in the execution petitions. The amount so deposited can be withdrawn by the decree holder without furnishing any security.

The civil revision petitions are accordingly disposed of.

There shall be no order as to costs.

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VILAS V. AFZULPURKAR, J

June 30, 2011  
DSK