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**HON'BLE DR. JUSTICE K.G. SHANKAR**

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**WRIT PETITION NO. 21049 OF 2004**

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**ORDER:**

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The petitioner seeks for a Writ of Certiorari to set aside the orders of attachment of movables dated 11.10.2004 in M.P.No. 1 of 2003 in I.D.No. 496 of 1991 on the file of second respondent-Labour Court, Guntur.

The facts leading to the present Writ Petition may briefly be stated. The first respondent was working as Kamati in B.C. Boys Hostel from 12.3.1974 till 12.9.1975. When his services were terminated, the first respondent challenged the same by raising I.D.No. 496 of 1991. The award was passed on 2.9.1997 ordering reinstatement and continuity of service without backwages.

The first respondent-Workman later filed M.P. No. 43 of 2002, seeking for the arrest of the judgment debtor. He also filed M.P.No. 1 of 2003 for attachment of the movables and for the sale of the same towards realisation of the orders in the Industrial Dispute. In M.P. No. 1 of 2003, the first respondent filed two applications E.A.No. 58 of 2003 and E.A.No. 63 of 2003, seeking to recall PW-2 in the former

application and amendment of the amounts covered by the MP in the later application. In M.P. No. 1 of 2003, the first respondent herein sought for execution of the award for a sum of Rs. 3,23,630/-. Through E.A.No. 63 of 2003, the first respondent has been seeking for the change of the amount from Rs. 3,23,630/- to Rs. 2,28,636/-, as the amount sought for by the first respondent herein. Both the EAs came up for hearing on 11.10.2004. When the judgment debtor sought time to file counter in the applications, the second respondent ordered attachment of the movables of the judgment debtors on 11.10.2004 itself and posted the applications to 3.12.2004.

The learned Government Pleader contended that when the decree holder/first respondent himself seeks for an amount of Rs. 2,28,636/- through amendment petition in E.A.No. 63 of 2003, there is no justification in attaching the movables for realisation of sum of Rs. 3,23,630/-. The learned Government Pleader submitted that it might be clarified that Miscellaneous Petition is for realisation of Rs. 2,28,636/- and sufficient time might be granted to the judgment debtor to honour the award.

The leaned counsel for the decree holder/first respondent on the other hand contended that subsequent to filing of the Miscellaneous Petition, the first respondent is

entitled to other amounts including interest and that the claim of the petitioner may not be confined to the amount of Rs. 2,28,636/- only. Indeed the first respondent could not have filed for a higher amount as the amount due by the date of M.P.No. 1 of 2003 would appear to be Rs. 2,28,636/- only.

Certainly further amounts may become due to the decree holder/first respondent. The decree holder however cannot seek for the same through M.P.No. 1 of 2003 but can seek for the same through a separate application. So far as the present M.P.No. 1 of 2003 is concerned, in view of the amendment petition of the decree holder himself, the judgment debtor would be liable to a sum of Rs. 2,28,636/- only.

Consequently, this Writ Petition is disposed of holding that the attachment is confined to Rs. 2,28,636/- only. The petitioner/judgment debtor is granted four weeks time to deposit the money covered by M.P.No. 1 of 2003, failing which, the second respondent shall be at liberty to execute the award in accordance with law. It is made clear that the decree holder/first respondent is at any rate entitled to take steps for the recovery of the balance of money covered by M.P.No. 1 of 2003, including interest due to him.

No costs. Miscellaneous petitions, pending if any in this Writ Petition, shall also stand closed.

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DR.JUSTICE K.G.SHANKAR

DATE: 31.12.2013

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