

IN THE COURT OF THE JUNIOR CIVIL JUDGE :: AVANIGADDA

Present: **Sri P. RAJAN UDAY PRAKASH,**
Junior Civil Judge, Movva.
FAC/- Junior Civil Judge, Avanigadda.

Wednesday, this the 09th day of August, 2023.

E.P. No. 40/2022 in O.S. No.128/2018

Grandhi Gangadhara Rao, s/o Satyanarayana,
Hindu, 37 years, Tadepalli, Ghantasala.

... Petitioner/D.Hr.

Vs.

Pallikonda Elisha Prasad, s/o Prasada Rao,
Hindu, 45 years, Challapalli.
Working at Puligadda.

... Respondent/J.Dr.

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This petition came before me on 04-08-2023 for final hearing in the presence of Sri. B. V. Seshagiri Rao, learned counsel for the petitioner/D.Hr., and the respondent/J.Dr. having been set *ex parte*, and having stood over for consideration till this day, this Court delivered the following:

ORDER

1. This is an execution petition filed by the petitioner/D.Hr. under Order XXI Rule 48 of the Code of Civil Procedure seeking attachment of the salary of the respondent/J.Dr.

2. The brief averments of the petition are:

The D.Hr. obtained the decree against the J.Dr. on 30-01-2019 in

O.S.No.128/2018. The J.Dr. is working as a lineman at Puligadda and getting a salary of Rs.60,000/- every month. Even after the decree was passed, the J.Dr. avoided to pay any amount due under the decree. Hence the petition is filed under Order XXI Rule 48 of the Code of Civil Procedure seeking attachment of the salary of the J.Dr. to realize the decretal amount.

3. The J.Dr. was called absent despite service of summons and there was no representation for him either. As such, he was set *ex parte*.

4. Heard the learned counsel for the D.Hr. Perused the record.

5. The point for consideration is:

“Whether the salary of the J.Dr. is liable to be attached ??

6. **POINT:**

It is seen from the record that the respondent/J.Dr. is working as a lineman at Puligadda and that he is getting salary every month. The D.Hr. contended that the J.Dr. did not repay the decretal amount despite having sufficient means. Either to rebut the contention raised by the D.Hr., or to put forth his own contentions, the J.Dr. has not made his appearance. For reasons unknown or best known to him, the J.Dr. did not choose to make his appearance before this Court despite service of the notice. As such, it cannot be said that the J.Dr. is oblivious to the present petition. In such a case, this Court is inclined to proceed with the version put forth by the D.Hr. and is inclined to hold that the J.Dr. is deliberately and willfully avoiding the payment of the decretal amount. In these circumstances, this Court is

inclined to allow the petition. Therefore the salary of the J.Dr. is liable to be attached. A perusal of the salary particulars of the J.Dr. for the month of December 2022 reveals that he is getting a basic salary of Rs.56,340/-. It is seen that as per the salary particulars, no other Court attachments are pending against the salary of the J.Dr. After deducting the statutorily exempted amount of Rs.1,000/-, the 1/3rd amount of the salary i.e., the salary that can be attached comes to Rs.18,446/-.

7. In the result, the petition is allowed. The Drawing and Disbursing Officer of the J.Dr. is directed to attach an amount of Rs.13,076/- (Rupees Thirteen Thousand and Seventy Six only) per month for 23 months and an amount of Rs.13,086/- (Rupees Thirteen Thousand and Eighty Six only) for one month for realization of the petition amount of Rs.3,13,834/-. Issue salary attachment warrant under Order XXI Rule 48 against the salary of the J.Dr. on payment of process. The petition is closed accordingly.

Typed to my dictation by the Personal Assistant, corrected and pronounced by me in the Open Court, on this the 09th day of August, 2023.

**Junior Civil Judge, Movva.
FAC/- Junior Civil Judge, Avanigadda.**

Appendix of Evidence:

No witnesses were examined and no exhibits were marked for either side.

**J.C.J., MOVVA.
FAC/- J.C.J., AVANIGADDA.**