

Common order passed below Exhs. 10 and 11
in Regular Darkhast No. 37 of 2016
(Sou. Rajshri Kathale & Anr. Vs. Babasaheb Kathale)

1. Present applications under order are filed by Decree Holder (DH) for attachment of gratuity, Provident Fund, Pension and other monetary benefits of Judgment Debtor (JD). Also DH has prayed for issuance of witness summons to Chief Executive Engineer, Irrigation Department, to provide all the details of post retirement benefits of JD. Perused the application and detail say filed by JD at Exhs. 13 and 15. Heard both side arguments. Perused entire record.

2. Careful reading of contention of DH, she has claimed Rs. 3,58,057.16 Ps. This amount is seriously challenged by JD. It is stated that already there is over payment on the part of JD. In short DH has failed to give any details as to how amount claimed is due. The DH has failed to show the correctness of amount claimed. The amount claimed ought to have supported with clear account on the part of DH. Hence, for want of any clear account, the amount is apparently vague.

3. So far as Decree in Special Civil Suit No. 28 of 2013 is concerned, it is specifically directed the charge of Decree only over Provident Fund of JD. Further in said Decree any relief or charge over gratuity, pension or other monetary benefits is rejected by the competent court. In this background, present relief claimed by DH in application under order, is not legal and proper.

4. Apart from that, as per section 60(1)(g) of the Code of Civil Procedure, there is strict bar for attachment of retirement benefits like gratuity, pension etc. Therefore, prayer of DH in application under order is not legal and proper.

5. Apart from that, the prayer in application Exh. 11 appears to be using court machinery for collecting information on the part of parties. Therefore, the prayer in application Exh.11 is not proper on the part of DH. Hence, it will not be proper to issue witness summons for collecting information or details for and on behalf of DH. Therefore, in my opinion, application Exhs. 10 and 11 deserve to be rejected. Hence, the order.

ORDER

- 1) Application Exhs. 10 and 11 stand rejected.
- 2) No order as to costs.

Date: 16.12.2016

(V.U. Misal)
Jt. Civil Judge Sr. Division, Barshi.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original judgment.

- (a) Name of the Stenographer : Kazi K.M. (Steno L.G)
- (b) Court : Court of Jt. C.J.S.D.
Barshi
- (c) Judgment/Order signed by : 16.12.2016
P.O on
- (d) Judgment/Order uploaded on : 17.12.2016