

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CIVIL REVISION PETITION NO: 55 OF 2024

Petition Under Section 115 of Civil Procedure Code against the Order dated 28-11-2023 Passed in E.P.No.28 of 2023 in O.S.No.175 of 2012 on the file of the Court of the Principal senior civil judge at kothagudeam, badradri kothagudeam district.

Between:

Syed Sarvar, s/o Hussian aged about 56 years Occ: Genral Mazdoor,
EC.No.1473434 S.C.Co.limitd, Qr.no.T-II-52F, Gouthampur, kothagudeam
Chunchupally, Mandal, Bhadradi Kothudeam district.

...Petitioner/J.Dr./Defendant

AND

1. K. Kumarswamy, s/o komaraiah age 58 years, Occ: Rtd emoloyee, R/o.H.No.
7-2-41, babu camp, kothagudeam town, bhadradi kothgudeam district.

...Respondent (D.hr./Plaintiff)

2. The General Manger, SCCL, Kothgudeam, Rudrampur area, Bhadradi
kothgudeam district

...Garnishee

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay orders granted in CRP No.55 of 2024 dt. 12-01-2024 until further orders.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in E.P.No.28 of 2023 in O.S.No.175 of 2012 on the file of the Principal senior civil judge at kothagudeam, badrdri kothgudeam, including the attachment of the salary of the petitioner. Pending disposal of the main C.R.P in the interest of justice.

Counsel for the Petitioner : Sri Karunakar Reddy

Counsel for the Respondent No.1: Sri Erigi Ganesh

Counsel for the Respondent No.2 : _ _ _

The Court made the following: Order

THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL**CIVIL REVISION PETITION No.55 OF 2024****ORDER:**

This Civil Revision Petition, under Section 115 of C.P.C, is filed by the petitioner herein aggrieved by the salary attachment warrant issued in E.P.No.28 of 2023 in O.S.No.175 of 2012, dated 28.11.2023 on the file of the Principal Senior Civil Judge at Kothagudem, Bhadradi Kothagudem District.

2. Heard the learned counsel for the petitioner/judgment debtor as well as the learned counsel appearing for respondent No.1/decree holder and perused the record.

3. The brief facts of the case are that respondent No.1 herein/decree holder filed suit *vide* O.S.No.175 of 2012 against the petitioner herein/judgment debtor and the said suit was decreed on 13.08.2013 for an amount of Rs.9,66,200/- together with interest at the rate of 12% per annum from the date of suit till the date of decree and at the rate of 6% per annum for the date of decree till the date of realization. Respondent No.1 filed execution petitions *vide* E.P.No.148/2014 and the same were

dismissed as not pressed. Respondent No.1 also filed second execution petition *vide* E.P.No.183 of 2014, third execution petition *vide* E.P.No.141 of 2017 and fourth execution petition *vide* E.P.No.76 of 2019 and the fourth execution petition was dismissed on 13.06.2022. Through the second execution petition an amount of Rs.1,81,440/- was recovered. Still there is an amount of Rs.12,47,766/- has to be recovered from the petitioner herein/judgment debtor. Now the petitioner is going to receive 11th wage board salary arrears from his garnishee. The petitioner hurried attempts to receive his 11th wage board salary arrears from the garnishee, if he succeeds in his attempts, respondent No.1 will suffer irreparable loss and injustice. Hence it is necessary to attach and call for execution petition schedule amount from his garnishee i.e., General Manager, Singareni Collieries Company Limited, Rudrampur, Kothagudem for realization of decretal amount.

4. The petitioner herein filed counter stating that he did not borrow any amount from respondent No.1 and they are not acquainted with each other. Respondent No.1 did not see the face of the petitioner. The Execution Petition filed by respondent

No.1 for attachment of salary arrears of the petitioner for wrongful gain to extract money to blackmail and to harass the petitioner. Respondent No.1 has already recovered an amount of Rs.1,81,440/- from the petitioner by attaching the salary of the petitioner for period of 24 months.

5. The Executing Court upon appreciating the oral and documentary evidence has passed the order in E.P.No.28 of 2023 in O.S.No.175 of 2012, which reads as under:

"12. In the result, the Execution Petition is allowed. Issue Rule 46 and 46 (A) of Code of Civil Procedure warrant, on payment of process, subject to Section 60 of C.P.C."

Aggrieved by the same, the petitioner herein/Judgment holder has preferred the present Civil Revision Petition.

6. Learned counsel for the petitioner/judgment debtor submitted that the Executing Court failed to note that Execution petition scheduled amounts are not attachable as the petitioner is working as General Mazdoor in Singareni Collieries Company Limited and he comes under the National Coal Wage Agreement (NCWA) employee and the particulars of the calculation are false

and the suit promissory note is forged, fabricated in collusion with the attestors. Therefore, there are no merits in Execution Petition. Hence seeks to dismiss the Execution petition by allowing the present Civil Revision Petition.

7. Learned counsel appearing for respondent No.1 submitted that the Executing Court upon careful examination has passed the order in E.P.No.28 of 2023 in O.S.No.175 of 2012, dated 28.11.2023. Therefore, interference of this Court at this stage is unwarranted. Hence seeks to dismiss the present Civil Revision Petition.

8. Recording the submissions made by the learned counsel for the petitioner and learned counsel appearing for respondent No.1, this Court is of the view that as per Section 60 (h) of Code of Civil Procedure, the wages, salary arrears are not attachable either in money or in any kind. But, here in this case the petitioner/judgment debtor is not a labourer or a domestic servant. The petitioner is working as E.P. Operator. The E.P. Operators are not labourers or domestic servants. Hence, the salary arrears of the petitioner are liable to be attached. Hence.

this Court does not find any reason to interfere with the well reasoned order passed by the Executing Court.

9. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, pending if any, shall stand closed.

//TRUE COPY//

Sd/- T.VIJAY KUMAR
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal senior civil judge at kothagudeam, badradri kothagudeam district (With records)
2. One CC to Sri Karunakar Reddy, Advocate [OPUC]
3. One CC to Sri Erigi Ganesh, Advocate [OPUC]
4. Two CD Copies

ADK/gh



HIGH COURT

DATED:16/02/2024

ORDER

CRP.No.55 of 2024

DISMISSING THE CRP

⑥

8/4/24

D.K.