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Babu @ GA. Vs. Jayalakshmi.

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SooperKanoon Citation : sooperkanoon.com/904474

Court : Chennai

Decided On : Aug-18-2010

Judge : G.Rajasuria, J.

Acts : Code Of Civil Procedure (CPC) - Section 115

Appeal No. : C.R.P.(NPD) Nos.2777 to 2779 of 2010 and M.P.Nos.1 to 1 of 2010

Appellant : Babu @ Gabriel .

Respondent : Jayalakshmi.

Advocate for Pet/Ap. : Mr.C.Selvaraj, Adv.

Judgement :

1. Inveighing the order dated 17.06.2010 passed in EP Nos.584 and 601 of 2009 in OS Nos.73 and 74 of 2008 and order dated 08.07.2010 passed in E.P.No.84 of 2010 in O.S.No.103 of 2008 by the learned District Munsif, Neyveli, these civil revision petitions are focussed.

2. Heard the learned counsel for the petitioner. In the facts and circumstances of the case, no notice to the respondent is required.

3. The nitty-gritty of the relevant facts absolutely necessary and germane for the disposal of these three revisions would run thus: The respondent herein filed as many as three suits, O.S.Nos.73, 74 and 103 of 2008 and obtained three money decrees as against the one and the same person, who is the revision petitioner in

all the three revision petitions. It so happened that in the Execution Petitions concerned in the proces of executing those three decrees, the Court ordered simultaneously attachment in all the three Execution Petitions and the grievance of the revision petitioner is that he is only getting a meagre sum as income and if at one and the same time all the three attachments are effected, he would be having nothing in his hand at the end of the month while receiving salary from his employer.

4. I would like to point out that ex facie and prima facie the apprehension on the part of the revision petitioner is untenable in view of Section 60 of CPC, which is clear on the point that the Court is justified in passing any number of attachments, but in the process of effecting actual deduction from the monthly salary of a person, Section 60 of CPC has to be observed, so to say the attachable portion alone could be attached and the unattachable portion cannot be attached and the garnishee cannot deduct towards attachment of salary over and above what is contemplated in Section 60 of CPC. If really there is any excess attachment, then immediately the revision petitioner is given permission to petition the Executing Court, whereupon the Executing Court shall intervene and see that Section 60 of CPC is enforced in letter and spirit. As such with the above observation, all the three revision petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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