

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

**CRP NO.2854 of 2023**

**Between:**

Gunda Sathaiah

... Petitioner

And

Karnakanti Narsimha Chary and others

... Respondents

**JUDGMENT PRONOUNCED ON: 29.01.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**CRP NO.2854 of 2023**

**% 29.01.2024**

**Between:**

**# Gunda Sathaiah**

..... Petitioner

**And**

**\$ Karnakanti Narsimha Chary and others**

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< Gist:

> Head Note:

!Counsel for the Petitioner: Mr Arunkumar Doddla

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^ Counsel for Respondents : Mr P.Ajith Varma

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****CRP NO.2854 of 2023****ORDER:**

**Heard Mr Arunkumar Doddla, learned counsel appearing on behalf of the petitioner and Mr P.Ajith Varma, learned counsel appearing on behalf of the respondents.**

2. This civil revision petition is filed challenging the propriety and legality of the order dated 23-08-2023 in I.A.No.703/2023 in O.S.No 141 of 2020, whereby the Court of Principal Junior Civil Judge, Mancherial dismissed the petition filed under Order 38 Rule 5 of C.P.C. filed by the petitioner/plaintiff.

3. For the sake of convenience, the parties herein are referred to as they are arrayed in the suit before the lower Court.

4. The plaintiff filed the suit against the defendants for recovery of Rs.12,32,000/- on the strength of promissory note dated 15-06-2018 for Rs.8 lakhs allegedly executed by the defendant.

5. The defendant filed written statement denying the suit claim of the plaintiff contending that he neither borrowed the alleged debt nor executed the suit promissory note..

6. Subsequent to the filing of the suit, the plaintiff filed I.A.No.703 of 2023 under Order 38 Rule 5 CPC against the defendant, the officials of Singareni Collieries Company Limited at Srirampur and the Branch Manager of Union Bank of India at Narsapur. The contention of the petitioner/plaintiff is that the first respondent /defendant worked in Singareni Collieries Company Limited and retired from service on 15.07.2023 and that he does not own and possess any immovable properties, but he is going to get retiral benefits from his company and the amount of the retiral benefits would be credited to his account in the Union Bank of India Branch at Narsapur. It is also his contention that in case the first respondent/defendant is allowed to receive the service benefits, he will shift his residence and consequently it becomes difficult to recover the suit amount and so out of the amount of terminal benefits an amount of Rs.12,32,000/- may be attached before judgment and that no prejudice is

caused to the first respondent, if the amount is attached as per Section 60 CPC.

7. The first respondent/defendant filed counter denying the claim of the petitioner/plaintiff for attachment before judgment and contended that he is a reputed person and has sufficient means and that the petitioner/plaintiff falsely filed the suit only to harass him. He also contended that in case, the attachment is ordered, he would be put to irreparable loss which cannot be compensated by any other means.

8. The lower Court after considering the material on record by the impugned order, dismissed the petition. Feeling aggrieved thereby, the petitioner/plaintiff filed the present Civil Revision Petition.

**9. The learned counsel for the petitioner by relying upon the decision of the erstwhile common High Court of Andhra Pradesh in Ananthula Buchiramulu vs Sakinala Janakiramaiah reported in 2004(2) ALD 730, contends that the lower Court in view of that decision, ought to have attached the terminal benefits of the 1<sup>st</sup> respondent/defendant. The learned counsel for the 1<sup>st</sup> respondent/defendant, on the other hand,**

contends that in view of the proviso (g) to Section 60(1) CPC the amount of terminal benefits is not liable for attachment. In support of the same, the petitioner placed reliance upon the judgment of the Supreme Court of India dated 04.11.2008 in Civil Appeal Nos, 6440-41 of 2008 in the case of Radhey Shyam Gupta vs Punjab National Bank and another.

**PERUSED THE RECORD**

10. The question, whether the first respondent borrowed the debt and executed the suit promissory note or not is an issue to be decided after a full fledged trial. The undisputed fact is that the first respondent/defendant worked in Singareni Collieries Company Limited and retired from service and he would get terminal benefits. Undisputedly, the amount sought to be attached is a portion of the terminal benefits payable to the first respondent/defendant. The Hon'ble Supreme Court in Radhey Shyam Gupta supra held that retiral benefits such as pension and gratuity are not

liable for attachment in view of the Proviso(g) to Section 60(1) CPC and that even after payment of the retiral benefits to the employee concerned they would continue to be covered by the Proviso(g) to Section 60(1) CPC. The decision in Ananthula Buchi Ramulu supra is not applicable to the present case, because the property sought to be attached was shares of the defendant in cine theatre business, whereas in the present case, the amount sought to be attached is the service benefits of the 1<sup>st</sup> respondent/defendant. The claim of the petitioner for attachment is not sustainable for the simple reason that the amount of service benefits of the 1<sup>st</sup> respondent/defendant is not liable for attachment in view of the Proviso (g) to Section 60(1) CPC.

11. In view of the above, this court does not find any irregularity or impropriety in the order dated 23-08-2023 passed in I.A.No.703/2023 in O.S.No 141 of 2020, by the Court of Principal Junior Civil Judge, Mancherial and accordingly the Civil Revision Petition is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Dated: 29.01.2024

Note: L.R. copy to be marked

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