

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

C.R.P.No.1228 of 2021

ORDER:

The respondent herein had filed O.S.No.128 of 2021 before the Junior Civil Judge, Piduguralla, for recovery of an amount of Rs.5,00,000/- with interest against the petitioners herein. He also filed I.A.No.220 of 2021 under Order XXXVIII Rule 5 C.P.C., seeking attachment of schedule property of the petitioners. The trial Court by order dated 20.07.2021 ordered conditional attachment directing the petitioners to furnish security equivalent to the suit amount within 72 hours, failing which attachment order would be made absolute. Aggrieved by the said order, the petitioners had approached this Court by way of this revision petition.

The petitioners were permitted to take out personal notice to the respondents and had filed proof of service, which showed that the notice sent to the respondent was refused by the respondent. In the circumstances, the said service shall be treated as service of notice on the respondent.

Smt. Manikyaveena, learned counsel appearing on behalf of Sri Naganjaneyulu Borra, learned counsel for the petitioner, relies upon a judgment of the erstwhile High Court of Andhra Pradesh reported in **Vemulapalli Ravichandra vs. Mattampalli Srinivasa Rao**¹ to contend that an order of this nature could not have been given without notice to the petitioners and without giving them an opportunity to set out their objections for attachment of their property. She further contends that the order of attachment should also show satisfaction of the trial Court about

¹ 2007 (4) ALD 485

the allegations made in the application. Learned counsel for the petitioners contends that none of these conditions have been complied with.

A perusal of the order shows that the trial court did not give any reasons as to why the Court was satisfied about the intent of the petitioners to sell away their property, which is the petition schedule property. Further, no opportunity was given to the petitioners to make out their case before the trial Court.

In the circumstances, this civil revision petition is allowed setting aside the order of the trial Court dated 20.07.2021 in I.A.No.220 of 2021 in O.S.No.128 of 2021 and the same is remanded back to the trial Court for proper adjudication in accordance with the provisions of Order XXXVIII Rule 5 C.P.C. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

23rd December, 2021
Js.

R. RAGHUNANDAN RAO, J.

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