

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.1462 OF 2015

ORDER:

The Civil Revision Petition is filed against the order dated 20.02.2015, passed by the Senior Civil Judge, Adoni, Kurnool District, in EP.No.19 of 2011 in OS.No.426 of 2008, wherein the Court below ordered arrest of the Judgment Debtors 1, 2, 4 and 5, who are the petitioners herein, for realization of the EP amount.

Learned counsel for the petitioners states that the Court below has not considered the evidence led by the petitioners as well as respondents properly. He also submits that the Court below, without considering the aspect as to whether the petitioners are having sufficient means to pay the EP amount, ordered for arrest. He also submits that unless the Decree Holder establishes that the Judgment Debtors have sufficient means to pay the decretal amount, the Court below cannot order for arrest of the Judgment Debtors.

On the other hand learned counsel for the 1st respondent, who is the Decree Holder in the Court below, submits that though all the petitioners are income-tax assesses and also having immoveable properties, they are deliberately avoiding the decretal amount and also submits that the trial Court after considering all these aspects passed the impugned order.

A perusal of the impugned order shows that all the petitioners are income-tax assesses and they are also having PAN numbers and that the petitioners themselves admitted that they are doing business. Considering the oral evidence as well as documentary evidence submitted by both the parties, the Court below ordered for

arrest of the Judgment Debtors by holding that all the Judgment Debtors are doing business and getting income and inspite of that they are neglecting to pay the decretal amount to the Decree Holder. As such, I do not see any merit in entertaining the Civil Revision Petition by exercising jurisdiction under Article 115 of the Constitution of India.

Though this Court passed interim order dated 17.04.2015 granting interim stay on condition of the petitioners depositing 1/4th of the decretal amount, the petitioners paid only Rs.80,000/- and filed an application for extension of time for payment of the balance amount. Learned counsel for the petitioners again seeks sufficient time for paying the balance decretal amount. In view of the same, the petitioners are granted another four months time for paying the balance decretal amount; in default, the impugned order comes into force. On deposit of balance decretal amount by the petitioners, the Decree holder is permitted to withdraw the deposited amount without furnishing any security.

Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the second appeal, shall stand closed.

A.RAJASHEKER REDDY, J

10.07.2015
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