THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.2679 of 2015

ORDER:

Heard the learned counsel for the petitioner. Inspite of service, there is no representation on behalf of R-1.

The present Revision is filed by the Jubdgment-debtor under Section 115 C.P.C. questioning the order dated 19-03-2015 in E.P.No.12 of 2014 in O.S.No.63 of 2007 on the file of Principal Junior Civil Judge, Husnabad, wherein and whereunder, an application filed under Order 21 Rule 43, C.P.C. by the Decree-holder was allowed.

The issue that arises or consideration in the present Revision is since the filing of suit itself is barred by limitation, the question of entertaining the E.P. does not arise. It is the case of the petitioner that the petitioner/Judgment debtor No.1 is said to have taken a loan of Rs.35,000/- on 12-05-1998 and thereafter, failed to pay the amount. A notice came to be issued on 09-06-2000 to pay the amount. Inspite of the same, he failed to pay the same. As the suit was filed in the year 2007, it is stated that the proceedings are barred by limitation.

A perusal of the material on record would show that the suit, which was filed in the year 2007 was numbered as O.S.No.63 of 2007 and thereafter summons were issued to the defendants. The defendant No.1 filed written statement and contested the matter. He examined himself as DW.1. After considering the rival submissions and the documents placed before the trial Court, the trial Court decreed the suit for Rs.53,777/- on 23-01-2014. Thereafter, the present E.P. came to be filed. The argument of the learned counsel for the petitioner that since the suit is barred by limitation, the question of entertaining the E.P. does not arise cannot be accepted for the reason that the petitioner herein contested the suit by filing written statement and also by adducing evidence. If really, he was aggrieved by the decree and judgment passed in O.S.No.63 of 2007, he could have challenged the same by filing an appeal, which he has not done. Apart from that, the plea of limitation was never

raised in E.P. proceedings.

In view of the above, I see no merits in the Civil Revision and the order under challenge warrants no interference.

Accordingly, the Civil Revision Petition is dismissed. However, it is open to the petitioner to avail remedies available under law, if any. Consequently, miscellaneous petitions, if any, pending in this Revision Petition shall stand closed.

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C.PRAVEEN KUMAR,J

01-10-2015

Nvl