

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.Nos.700, 1237 & 1256 of 2015

COMMON ORDER:

Heard Sri Venkateswar Varanasi, learned counsel for the petitioner and Sri K.K.Chakravarthy, learned counsel for the respondent.

2. These three Revisions Petitions arise between the same parties out of the same suit. Therefore, they are being decided by this common order.

3. The petitioner herein is the decree holder in the suit O.S.No.235 of 2008 on the file of the Principal Senior Civil Judge, Madanapalle. He had obtained a decree on 08-09-2010 in the said suit for recovery of a sum of Rs.3,75,600/- with interest thereon. The decree attained finality as there was no challenge to it.

4. Thereafter, petitioner filed E.P.No.2 of 2011 to execute the said decree under Order 21 Rules 37 and 38 CPC to arrest the respondent and put him in civil prison stating that he has got sufficient means to satisfy the decree debt but is deliberately evading to do so. The said E.P. is pending and evidence was also adduced by parties in the E.P.

5. The petitioner filed E.A.No.64 of 2014 to reopen the evidence for the purpose of further cross

examination of the respondent; E.A.No.65 of 2014 to recall P.W.1 and R.W.1 to confront certified copy of I-B Certificate issued by the Tahsildar, PTM; and E.A.No.66 of 2014 to receive the copy of 1-B Register issued on 08-09-2012 to him by the Village Revenue Officer.

6. In the affidavit filed in support of these applications, the petitioner contended that he had obtained copy of the 1-B extract from the Tahsildar PTM and had also filed creditors I.P. and since it is necessary to prove his contention that the respondent had means and capacity to discharge the decree debt but is not discharging it, it is necessary to receive this document.

7. Counter affidavit was filed by the respondent opposing these three applications. It was stated that he did not know the petitioner obtained certified copy of the 1-B Register from the Tahsildar, PTM and had filed the same in Creditors IP and he did not receive any notice in the said I.P. allegedly filed by the petitioner. He reiterated that he did not possess any immovable property. He also contended that it is not relevant to mark the document on behalf of the decree holder and he had not explained the delay in filing it.

8. By a common cryptic order, the Court below dismissed E.A.Nos.64, 65 and 66 of 2014. The Court erroneously concluded that certified copy of the 1-B Register was available with the petitioner at the time when

he filed the E.P. itself, that no reasons had been assigned why it was not filed in the E.P., and since E.A.No.66 of 2014 was dismissed, the other applications were also dismissed.

9. Challenging the same, these three Revision Petitions are filed.

10. Admittedly the E.P. had been filed in the year 2011. Certified copy of 1-B Register was issued to the petitioner long afterwards on 08-09-2012. So the Court below has erred in dismissing the E.As. holding that the petitioner had possession of the said document at the time when he filed E.P. in the year 2011.

11. The learned counsel for the respondent is not right in contending that the 1-B Register was issued prior to filing of E.P. in 2011. I am satisfied that it had been issued to the petitioner long after filing of the E.P. and could not have been filed by him along with the E.P.

12. Accordingly, these Civil Revision Petitions are allowed. The common order dt.22-09-2014 in E.A.Nos.64, 65 and 66 of 2014 is set aside and the said E.As. are allowed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-09-2015

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