

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

**C.R.P.No.3691 of 2013**

**ORDER:**

Heard Sri A.Suryanarayana, learned counsel for the petitioner and Sri Venkatesh Deshpande, learned counsel for the respondent.

2. This Revision Petition is filed challenging the order dt.04-07-2013 in E.P.S.R.No.970 of 2013 in O.P.No.403 of 2001 of the Judge, Family Court, City Civil Court, Hyderabad.

3. Petitioner herein is the wife of the respondent. She filed O.P.No.403 of 2001 for restitution of conjugal rights which was decreed on 16-05-2003.

4. Since the decree was not obeyed, she filed E.P.S.R.No.970 of 2013 under Order 21 Rule 32 CPC to direct the respondent to deposit from 01-03-2013, a sum of Rs.30,000/- per month to her bank account on or before 10<sup>th</sup> of every month in advance until further orders.

5. The Court below, without even numbering the said E.P., dismissed it by order 04-07-2013. In the said order, the Court below observed that the petitioner had not sought attachment of any property of the respondent and since she is seeking execution of a decree for restitution of conjugal right under Order 21 Rule

32 CPC, she can only seek attachment of the property of the respondent and cannot seek any direction to the respondent to deposit any money in her bank account.

6. Learned counsel for the petitioner contends that the Court below had not noticed Order 21 Rule 33 CPC which empowers a Court, even at any time after passing a decree of restitution of conjugal rights, to pass orders against the husband directing him to make to the wife certain periodical payments as it thinks fit. However, he fairly stated that this provision of law was not brought to the notice of the Court below.

7. Learned counsel for the respondent does not dispute that under Order 21 Rule 33 CPC, it is open to a Court to grant a direction for deposit of periodical payments, in the event a decree of restitution of conjugal rights is not obeyed.

8. In this view of the matter, I am of the opinion that the order by Court below rejecting E.P. even without numbering it cannot be sustained.

9. Therefore, the Civil Revision Petition is allowed and the order dt.04-07-2013 in E.P.S.R.No.970 of 2013 of the Family Court, Hyderabad is set aside. The said E.P.S.R. is restored to the Court of Family Judge, Hyderabad; the said Court is directed to number the said E.P. and decide the same in accordance with law after

hearing both parties; and consider both Order 21 Rule 32 as well as Order 21 Rule 33 CPC and any other applicable provision of law. This exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs.

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

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 27-08-2015

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