

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5473 of 2010

ORDER :

This Revision is filed challenging the order dt.29.10.2010 in E.P.No.199 of 2007 in O.S.No.578 of 1999 on the file of I Additional Junior Civil Judge, Eluru.

2. The petitioner herein is the judgment-debtor in the above E.P.

3. The respondent/decreed-holder filed the above suit for recovery of amount on the basis of a promissory note against petitioner. Initially, the suit was dismissed on 07.12.2001 by the Principal Junior Civil Judge, Eluru.

4. Thereafter, the respondent filed A.S.No.35 of 2002 before the V Additional District Judge, (Fast Track Court) , West Godavari, Eluru, which was allowed on 25.11.2005. No further appeal was carried against the said judgment and it became final.

5. Thereafter, E.P.No.199 of 2007 was filed by respondent for execution of the decree by sending the petitioner to a civil prison for realization of decretal amount. He contended that petitioner is having extensive movable and immovable properties and having capacity to discharge the decretal amount, he is not doing so.

6. The petitioner filed a counter stating that he did not possess any movable or immovable properties, although he admitted that he was employed and earning a salary.

7. The respondent examined himself as PW.1, while petitioner examined himself as RW.1 and marked Exs.R.1 to R.5.

8. By judgment dt.29.10.2010, the Court below directed petitioner to be sent to civil prison for realization of decretal amount. It held that petitioner was working as a school teacher; that he admitted in his evidence that he purchased an apartment by obtaining a housing loan for Rs.6 lakhs in 2005 and he is paying instalments of Rs.6,500/- per month for it and Ex.R.1, certificate issued by the Mandal Revenue Officer, also proved that petitioner is having an apartment. It therefore held that petitioner had sufficient means to satisfy the decree, and since he did not do so, he shall be sent to a civil prison for realization of decretal amount.

9. Questioning the same, this Revision is filed.

10. Heard Sri K. Ramesh Babu, counsel for petitioner; and Sri D. Narasimha Rao, counsel for respondent.

11. At the time when this Revision was admitted, petitioner was directed to deposit Rs.50,000/- to the credit

of suit. The petitioner's counsel states that petitioner had complied with the same. Since the finding of Trial Court on appreciation of evidence is that petitioner had means to satisfy the decree and he is willfully avoiding to do so, and since the said findings are not challenged by petitioner, I do not find any merit in the Revision and the same is accordingly dismissed. No order as to costs.

12. The petitioner is granted four (04) weeks time from the date of receipt of a copy of this order to satisfy the decree in the suit since A.S.No.35 of 2002 was allowed decreeing the suit. In default thereof, the order passed by the Court below shall be implemented.

13. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-06-2015

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