

HON'BLE SRI JUSTICE R.KANTHA RAO

C.R.P.No.4404 of 2009

ORDER

This Civil Revision Petition is directed against order dated 27.07.2009 passed in E.P.No.41 of 2008 in O.P.No.721 of 2006 by the I Additional District Judge, East Godavari District, Rajahmundry.

In spite of service of notice, none appears for the respondent. Heard learned counsel appearing for the petitioner.

The revision petitioner herein is the judgment debtor. The respondent-decree holder after obtaining money decree against revision petitioner filed E.P.No.41 of 2008 seeking his arrest and detention in civil prison on the ground that having sufficient means, he is intentionally evading the payment of decretal amount.

It is contended by the revision petitioner before the trial Court that he is suffering from diabetics, hyper tension and heart ailment and that he has already paid decretal amount to the decree holder.

The Executing Court having observed that the burden is on the judgment debtor to establish the factum of paying decretal amount and that he is suffering from ailments; he did not adduce any evidence in support of his contention; and he also did not examine himself as witness before the Executing Court, issued arrest warrant against the judgment debtor.

The Executing Court has rightly issued warrant of arrest under Order 21 Rules 37 and 38 CPC. Absolutely, there are no merits in this revision and the same needs no interference.

Accordingly, the Civil Revision Petition is dismissed. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE R.KANTHA RAO

3rd December, 2015

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