

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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CIVIL REVISION PETITION No.162 of 2015

Between:

Bhavisetty Rajendra Prasad.

....Petitioner

and

Alla Sessa Ratnam.

....Respondent

JUDGMENT PRONOUNCED ON : 04.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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ORDER:

The judgment debtor in E.P.No.372 of 2007 in O.S.No.589 of 2005 on the file of the learned IV Additional Senior Civil Judge, Guntur, is the petitioner herein. The respondent filed the suit for recovery of money and a decree was passed on 02.08.2007. The petitioner was ordered to pay an amount of Rs.4,19,913/- with subsequent interest @ 6% per annum on the principal amount of Rs.2,00,000/- from the date of the suit till realization, besides Rs.14,814/- towards costs of litigation. It appears that the petitioner has been paying some amounts on various dates, but interest was claimed on the payments made by him. Both the parties filed calculation memo, and the decree holder filed a calculation memo showing the deduction of amounts paid by the petitioner for liquidating the interest portion first and the same was objected by the petitioner on the ground that the amounts paid should be first given credit to the principal.

The lower Court considered the rival claims and passed an order on 18.11.2014 in E.P.No.372 of 2007 directing the judgment debtor to pay an amount of Rs.99,799/- on or before 29.11.2014, and challenging the said order, the present Civil Revision Petition is filed.

The application of the amounts payable by the judgment debtor and their credit is no longer *res integra*. The Supreme Court in **V.Kala Bharathi v. Oriental Insurance Co. Ltd., Branch Chittoor** clarified the position as follows:

“26. In view of above and more particularly keeping in view the ratio of the Constitution Bench judgment in **Gurpreet Singh v. Union of India** ((2006) 8 SCC 457), where considering an identical question in respect of Order XXI Rule 1 of the CPC, it was held that if the amount deposited by the judgment debtor falls short of the decretal amount, the decree-holder is entitled to apply the rule of appropriation

by appropriating the amount first towards interest, then towards costs and subsequently towards principal amount due under the decree; we are of the opinion that the appellants herein are entitled to the amount awarded by the Executing Court, as the amounts deposited by the judgment debtor fell short of the decretal amount. After such appropriation, the decree-holder is entitled to interest only to the extent of unpaid - principal amount. Hence, interest be calculated on the unpaid principal amount.”

In view of the above, the order of the Executing Court dated 18.11.2014 does not warrant any interference, and the Civil Revision Petition is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

04.12.2015

vs

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