

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.1198 OF 2015

ORDER:

Heard the learned counsel for petitioner and none appeared for respondent

2. The petitioner herein is the decree holder pursuant to a decree passed by the Court of Senior Civil Judge, Proddatur (for short, trial Court) in O.S.No.144 of 2005 dated 07.02.2006. He filed the said suit seeking recovery of an amount of Rs.1,31,000/- along with interest as against the respondent. After decretal of the suit, the petitioner filed E.P.No.69 of 2006 before the trial Court seeking to sell the house property of the judgment debtor, respondent herein, but it was dismissed on 02.02.2011, as the said property was auctioned by Proddatur Cooperative House Building Society for realization of their loan amount. Subsequently, the petitioner filed E.P.No.98 of 2011 seeking arrest of the respondent alleging that the respondent, who was owning a motorcycle bearing No.AP04AL 3979, purposefully transferred the same in the name of his nephew under Ex.B.2 and thus, though the respondent is having means to pay the decretal amount, he is avoiding to pay the same and therefore he should be kept in civil prison. The trial Court dismissed the said application by its order dated 19.12.2014 on the ground that the decree holder failed to show the means of the judgment debtor. Challenging the same, the present Civil Revision Petition is filed.

3. The lower Court considered the evidences of the petitioner and the respondent and came to the conclusion that the petitioner did not file any document, except Ex.A.1, to show that the respondent is having means to pay the decretal amount. In the absence of the petitioner proving the capacity of the respondent, it was held that no order for arrest of the respondent can be passed.

4. This Court is in perfect agreement with the finding recorded by the trial Court and, hence, the Civil Revision Petition is dismissed. However, this will not prevent the petitioner from taking appropriate steps in accordance with law when a new cause of action arises. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAMALINGESWARA RAO, J

Date: 05.11.2015

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