

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.4150 of 2015

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01.10.2015

Between:

Gantela China Phileman

...Petitioner

And

Yampalli Lingam Raju @ Linga Raju

...Respondent

Counsel for the petitioner: Mr.T.S.Rayalu

Counsel for the respondent: --

The Court made the following:

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ORDER:

This civil revision petition arises out of order, dated 03.09.2015, in E.P.No.39 of 2014 in O.S.No.159 of 2008 on the file of learned Senior Civil Judge, Gurazala.

The respondent secured a decree for recovery of money against the petitioner. As the petitioner failed to pay the decretal amount, the respondent filed E.P.No.39 of 2014 under Order XXI Rule 38 C.P.C. for issuing arrest warrant against the petitioner and sending him to civil prison. The petitioner contested the said E.P. by pleading no means. The lower Court has, however, rejected the petitioner's plea of no means and allowed the E.P. by directing him to pay the E.P. amount on or before 28.09.2015, failing which, warrant of arrest will be issued against him.

At the hearing, Mr.T.S.Rayalu, learned counsel for the petitioner, submitted that though his client is a retired railway employee and has received a sum of Rs.7 lakhs towards retiral benefits, he had spent the said amount towards his medical expenses.

No evidence is adduced by the petitioner in support of his plea that he spent the said sum of Rs.7 lakhs towards medical expenses. It is also not in dispute that the petitioner is getting Rs.9,000/- per month towards pension. In the light of these admitted facts, the plea of the petitioner that he has no means to discharge the decretal amount was found as false by the lower Court and in my view very correctly. As the petitioner has failed to pay the E.P. amount despite having sufficient means, the lower Court has not committed any jurisdictional error in directing payment of the E.P. amount within the time stipulated and indicating in its order that in the event of failing to deposit the said amount within the stipulated time, warrant for arrest of the petitioner will be issued.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No.5506 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

01st October, 2015

GHN