

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF
ANDHARA PRADESH

C.R.P.No.3715 of 2014

Between:

Nussam Ramana Reddy

.....Petitioner

and

Nussam Chinna Narayana Reddy

.....Respondent

Date of Judgment pronounced : 10-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked :
Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.3715 of 2014

ORDER:

Heard Sri Maheswar Rao Kuncham, learned counsel

for the petitioner, Sri V.Nitesh, learned counsel for the respondent.

2. This Revision Petition is filed challenging the Order dt.30-08-2014 in E.P.No.82 of 2012 in O.S.No.143 of 2010 of the Junior Civil Judge, Dharmavaram, Anantapur District.

3. Petitioner herein is J.Dr. in the said suit. The said suit was filed for recovery of money against the petitioner and had been decreed on 16-10-2012 by the Junior Civil Judge, Dharmavaram. E.P.No.82 of 2012 was filed by the respondent under Order 21 Rule 37 and 38 CPC to arrest the petitioner and send him to a civil prison for realization of E.P. decretal amount.

4. Counter affidavit was filed by the petitioner contending that he had no means to discharge the E.P. amount and he did not have any moveable or immoveable properties to discharge the same. He also stated that there is severe drought in Anantapur District where he has some property, but the income from the said property was not sufficient to discharge the E.P. amount and also to maintain his family.

5. Before the executing Court, the respondent examined himself as P.W.2 and marked Exs.P-1 to P-3. The petitioner examined himself as R.W.1 and did not mark any documents.

6. On appreciation of evidence, the trial Court held that the petitioner has got about Ac.2.00 cts of land and he was raising banana, groundnut and onion crops and also dug a bore well to irrigate his land. It held that although the decree in the suit was passed on 16-10-2012, the petitioner had not made any payment to the respondent and since he has sufficient means and capacity to discharge the E.P. debt, and has not done so, he is liable to be committed civil prison for satisfaction of the said debt.

7. Challenging the same, this Revision Petition is filed.

8. On 24-10-2014 this Court granted stay of arrest of the petitioner on condition of the petitioner depositing Rs.20,000/- within three weeks from that day. Pursuant to the said order, the petitioner deposited the same.

9. Although the learned counsel for the petitioner sought to contend that the petitioner had no means to satisfy the decree passed against him in the suit, having regard to the finding given on appreciation of evidence by the trial Court that he has got the means to satisfy the decree but had not done so, no exception can be taken to the order of the executing Court committing the petitioner to a civil prison.

10. In these circumstances, the petitioner is granted two months from today to pay the balance E.P. amount and in default thereof, the respondent is entitled to execute the order passed by the Court below and commit the petitioner to civil prison as directed by it. The respondent is permitted to withdraw the amount deposited by petitioner without furnishing any security.

11. The Civil Revision Petition is disposed of with the above directions. No costs.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-08-2015

kvr