

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

CIVIL REVISION PETITION No.4983 of 2014

ORDER:

This Revision is filed challenging the order dt.29-11-2014 in E.P.No.26 of 2013 in O.S.No.190 of 2009 of the Principal Junior Civil Judge, Kandukur.

2. The petitioner herein is J.Dr. in the above suit. The said suit was filed by respondent against petitioner for recovery of money on the basis of a promissory note. The suit was decreed on 08-03-2011.

3. Thereafter E.P.No.26 of 2013 was filed by respondent for recovery of a sum of Rs.40,172/- by way of arrest and detention of J.Dr. in a civil prison. It was contended by the respondent that petitioner had land of extent Ac.2-00 in Ramayapatnam village and also earning a sum of Rs.50,000/- p.a. from agriculture and aquaculture and he has sufficient means to discharge the debt, but he is evading to discharge the debt.

4. Counter affidavit was filed by petitioner contending that the decree obtained by respondent was an *ex parte* decree and that he had no capacity to discharge the E.P. amount.

5. The respondent examined P.Ws.1 and 2 and marked

Exs.P-1 and P-2. The petitioner examined himself as R.W.1.

6. By order dt.29-11-2014, the Court below allowed the E.P. with costs and directed the petitioner to be detained in a civil prison for two weeks towards realization of the E.P. amount. On appreciation of evidence adduced before it, the Court below held that the documents filed by respondent indicate that an extent of Ac.0-49 cents of wet land in Sy.No.78/1 in Ramayapatnam village stands in the name of petitioner. It did not accept the contention of petitioner that he did not have any properties to discharge the decretal debt. It also noted that the petitioner had admitted that a sum of Rs.1,00,000/- was spent by him for running aquaculture in Ac.1-00 of land and that he constructed a house with the funds of the Government.

7. Challenging the same, this Revision is filed.

8. Heard Sri K.Manmadha Rao, learned counsel for petitioner and Sri M.Sudheer Kumar, learned counsel for respondent.

9. Although learned counsel for petitioner sought to contend that the findings of the executing Court in the impugned order are not correct and that the decree passed against petitioner is only an *exparte* decree,

I am of the opinion that the said contentions are not

tenable. Admittedly, the petitioner has not sought for setting aside of the *ex parte* decree nor has he challenged the said decree in an appellate Court. Once the petitioner admits that he is running aquaculture and the documents filed by petitioner indicate that petitioner owns Ac.0-49 cents of wet land, it has to be held that petitioner had means to satisfy the decree but he is deliberately evading to do so. Therefore, I do not find any error or infirmity in the impugned order.

10. Accordingly, the Civil Revision Petition is dismissed. However, two (02) months time from today is granted to petitioner to discharge the balance of the E.P. amount due under the decree dt.08-03-2011 in O.S.No.190 of 2009. If within this period the petitioner does not discharge the E.P. debt, the order passed by the Court below will come into operation. No costs.

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

JUSTICE M.S. RAMACHANDRA RAO

Date: 26-10-2015

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