

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION No.1979 OF 2012

Dated 26-2-2016

Between:

Motaparthi Rama Krishna.

..Petitioner.

And:

Kanamarlapudi Venkateshwara Prasad.

..Respondent.

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ORDER:

This revision is preferred questioning order dated 16-3-2012 in E.P.No.289 of 2010 in O.S.No.28 of 2005 on the file of I Additional Junior Civil Judge, Eluru.

Revision petitioner herein is J.Dr. in the above referred E.P. and D.Hr. filed application under Order 21 Rule 37 C.P.C. to arrest the J.Dr. and detain him in civil prison for non-payment of decretal amount.

Trial court after considering the evidence of P.Ws.1 and 2 examined on behalf of D.Hr. and evidence of revision petitioner herein examined as R.W.1 and also considering the contentions raised on behalf of both parties held that revision petitioner has got sufficient means to discharge decretal amount and as he did not pay decree amount, petition was allowed and arrest was ordered for realization of decretal amount. Questioning the same, present revision is filed.

Advocate for revision petitioner submitted that the main contention of the Decree Holder is J.Dr. was working as Director in M/s. Annapurna Mills Limited, Eluru and getting remuneration of Rs.1,00,000/- per annum, but the said allegation is not correct as J.Dr. specifically stated that mill was closed in 2002 and Lower court has not considered that aspect. He further submitted that without any proof with regard to owning Ac.6-00 of land and

income thereon, court below has ordered for arrest of J.Dr. and that the order of the trial court is illegal. He further submitted that court has not followed the procedure contemplated under order 21 Rule 37 C.P.C., for this reason, the order of Lower Court has to be set aside. He further submitted that for any reasons, contention of revision petitioner is not accepted, he may be permitted to approach the court below to discharge the decretal amount in installments.

Advocate for D.Hr.-respondent opposed the request of the advocate for revision petitioner and submitted that court below on a consideration of evidence of both parties recorded findings that J.Dr. has got sufficient means and therefore, there are no grounds to interfere with the orders of the court below.

Now the point that would arise for my consideration in this revision is whether the order of the court below is legal, correct and proper?

POINT:

Admittedly, there is a decree against revision petitioner for a sum of Rs.1,10,651/- as on the date of filing of E.P. and as revision petitioner has not repaid that amount, E.P. was filed for arrest of J.Dr. i.e., revision petitioner herein. Trial court conducted enquiry during which, two witnesses are examined on behalf of decree Holder and the judgment debtor himself was examined as R.W.1 and on a consideration of evidence of both parties, trial court recorded findings that J.Dr. has got sufficient means to discharge the decretal amount but evading to pay the same. Trial court also considered the judgment relied on by the J.Dr. in support of his contention that he has no means to discharge the decretal amount.

On a scrutiny of material, I do not find any wrong in the findings of the trial court and it rightly appreciated entire material on record, particularly, admission of J.Dr. i.e., he is cultivating some agricultural land and realizing income. Though the decree is passed in the year 2007, it appears that J.Dr. has not paid any amount to the decree holder and only after filing of this revision, as per the

interim order granted by this court, he has deposited a sum of Rs.40,000/- to the credit of E.P.

Considering these aspects, I am of the view that trial court has not committed any error either procedural or jurisdictional to be interfered by this court while exercising revisional powers.

With regard to request of advocate for revision petitioner to permit J.Dr. to pay the remaining amount in installments, it is for the party to take appropriate steps, no permission is necessary if law provides such a remedy.

For these reasons, this Civil Revision Petition is dismissed as devoid of merits.

As a sequel to the disposal of this revision, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI
KUMAR

Dated 26-2-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dvs