

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.5025 of 2014

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908, by the unsuccessful petitioner/judgment debtor, in E.P.No.19 of 2012 in O.S.No.49 of 2008, is directed against the orders dated 20.11.2014 of the learned Senior Civil Judge, Avanigadda, passed in the said execution petition filed for arrest and detention of the judgment debtor in civil prison.

I have heard the submissions of Sri Sai Gangadhar Chamarty, learned counsel for the revision petitioner/judgment debtor, and of Sri N.Aswartha Narayana, learned counsel for respondent/decree holder, and perused the material record.

On obtaining a decree for recovery of money, which has become final, the decree holder filed the execution petition for recovery of the decree debt in a sum of Rs.1,00,989/- with execution costs and subsequent interest and sought arrest and detention of the judgment debtor in civil prison for realization of the decree debt. The judgment debtor filed a counter and resisted the execution petition. At the time of enquiry, the decree holder and the judgment debtor were examined as PW-1 and RW-1, respectively, and Ex.A1 was marked on the side of the decree holder. No documents were marked on the side of the judgment debtor. The Executing Court, having appreciated the facts correctly and the evidence in proper perspective, found that the judgment debtor is

having landed property and that he is having means to pay a substantial portion of the decree debt and that he is wilfully evading paying the same, and allowed the execution petition and directed issuance of warrant of arrest against the judgment debtor. Therefore, the judgment debtor is before this Court.

At the time of admission, this Court, on 27.12.2014, while granting stay for a period of six weeks from that day, directed the judgment debtor to deposit Rs.35,000/- to the credit of the execution proceedings. Subsequently, the said stay orders are not extended. However, it is not in dispute that the judgment debtor deposited the said amount.

At the hearing, learned counsel for the judgment debtor, while reiterating the defence of the judgment debtor that he is an agriculturist and that he has no means to pay the decree debt and that he has not wilfully avoided to pay the decree debt, stated that the order impugned in this revision is liable to be set aside. He alternatively contended that the judgment debtor may be granted three months time from today for depositing the balance decree debt, which will be about Rs.70,000/- according to his submissions.

Learned counsel for the decree holder, while supporting the orders of the Court below, stated that the revision petition may be dismissed confirming the well considered orders of the Court below by giving reasonable time to the judgment debtor to clear the decree debt.

Having regard to the submissions and having gone through the order of the Court below, this Court is satisfied that, in the facts and circumstances of the case, there is no merit in the revision and, therefore, the order impugned in the revision does not warrant interference and that the revision petition can be dismissed with appropriate directions.

Accordingly, the revision petition is dismissed confirming the orders of the Executing Court, which are impugned in this revision. However, the judgment debtor is granted three months time from today to pay the entire balance decree debt with interest and execution costs. Failing such payment by the Judgment Debtor within the stipulated time, the Executing Court shall take up further proceedings in the execution petition and order issuance of warrant of arrest against the judgment debtor as per its orders, which are confirmed in this revision. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

M.SEETHARAMA MURTI, J

06.12.2016

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