

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

CRP No.3247 of 2011

Oral Order:

This Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code by the judgment debtor, challenging the order dated 29.7.2011 passed in E.P.No.26 of 2010 in O.S.No.496 of 2002 on the file of the Court of the I Additional Junior Civil Judge, Kovvur, West Godavari District.

Heard the learned counsel for the petitioner.

Despite service of notice, none appeared for the respondent.

Seeking enforcement of the decree passed in O.S.No.496 of 2002 for recovery of amount, the respondent-decree holder filed E.P.No.26 of 2010 by way of arrest of the petitioner herein under Order 21 Rule 37 and Section 55 of CPC. The learned I Additional Junior Civil Judge, Kovvur, by way of order dated 29.7.2011, allowed the said E.P., directing issuance of warrant of arrest. The said order passed by the learned I Additional Junior Civil Judge, Kovvur is under challenge in the present Civil Revision Petition.

This Court while ordering notice on 12.8.2011 granted stay of arrest of the petitioner herein subject to the petitioner depositing 50% of the decretal amount on or before 2.9.2011. When the matter is taken up, it is

submitted by the learned counsel for the petitioner that in terms of the said interim order passed by this Court, the judgment debtor, revision petitioner herein, deposited the amount on 30.8.2011. According to the learned counsel, the order impugned order is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order 21 Rule 37 and Section 55 of CPC.

A perusal of the impugned order clearly shows that only after taking into consideration the entire material available on record, and also by taking into account the admissions of the petitioner with regard to the lands and properties owned by him, the impugned order came to be passed by the Court below. In view of the reasons recorded by the learned I Additional Junior Civil Judge, Kovvur, this Court is not inclined to meddle with the said reasoned order. However, as the petitioner has deposited the amount on 30.8.2011 as per the orders of this Court, this Court deems it appropriate to permit the petitioner to deposit the rest of the amount by giving some time.

For the aforesaid reasons, the Civil Revision Petition is disposed of, permitting the petitioner to deposit the balance amount within a period of six months from the date of receipt of a copy of this order. It is also made clear that in the event of non-adherence to the said condition, the impugned order stands automatically revived and it is open for the decree holder to pursue the remedies as per law. Miscellaneous petitions pending, if any, shall stand

closed. No costs.

JUSTICE

A.V.SESHA SAI

Dt: 28.3.2016

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