

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.4640 AND 4643 of 2016

COMMON ORDER:

Heard Sri Vedula Srinivas, Learned Counsel for the petitioner and Sri R.A. Achuthanand, Learned Counsel for the respondent and, with their consent, both the CRPs are disposed of at the stage of admission. These CRPs are preferred against the order passed by the VII Senior Civil Judge, City Civil Court, Hyderabad in E.P. No.81 of 20012 in O.S. No.943 of 2008 31.08.2016 whereby Sri Awar Balraj was sent to Civil Prison for realisation of the decretal amount.

In the orders under revision, the Court below has held that the 1st judgment debtor had suppressed the property owned by judgment debtors 1 and 2, and the actual income derived by the first judgment debtor and his son; it could be safely inferred that the 1st judgment debtor is able bodied, and has sufficient means to pay the decretal amount to the decree holder; the decree holder has established that the 1st judgment debtor has sufficient means despite which he has not paid the decretal amount; and, in such circumstances, the 1st judgment debtor should be sent to civil prison.

The Court below has not even recorded a finding regarding the details of the properties owned by judgment debtors 1 and 2 which were allegedly suppressed by them necessitating the 1st judgment debtor being sent to civil prison. It is only after recording the basis on which it has concluded that the judgment debtor has suppressed their properties, could the Court below

have resorted to the drastic step of sending one of petitioners herein to civil prison. As the means of judgment debtors 1 and 2 to pay the decretal amount has not even been examined, I consider it appropriate to set aside the orders under revision, restore the applications before the Court below to file, and direct the Court below to decide EP No.81 of 2012 afresh at the earliest, preferably within a period of two months from the date of receipt of a copy of this order.

Both the Civil Revision Petitions are, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand closed. No costs.

Date: 23.09.2016

MRKR

RAMESH RANGANATHAN, ACJ

