

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.R.P. No. 1559 of 2012

ORDER:

This Civil Revision Petition is preferred questioning order dt.17.02.2012 in E.P.No.620 of 2003 in O.S.No.140 of 1998 on the file of the I Additional Junior Civil Judge, Eluru, West Godavari District.

2. The revision petitioner herein is the sole JDR in the above referred E.P. and the said EP is filed under Order XXI Rule 37 CPC seeking arrest of the JDR.

3. Executing Court on a consideration of material evidence did not agree with the objections of the JDR and recorded a finding that JDR intentionally avoided payment of decretal amount, and allowed the Execution Petition and issued arrest warrant.

4. Questioning the same, present Revision is preferred by the JDR.

5. As seen from the impugned order, the E.P. amount was Rs.39,900/-. This Court while ordering 'notice before admission', granted stay on condition of the petitioner depositing a sum of Rs.10,000/-.

6. Advocate for the revision petitioner represented that the said condition was complied with and Rs.10,000/- was deposited. It is further submitted that the JDR has paid entire amount in the presence of elders and in order to prove the same, RWs.1 and 2 were examined and receipt dt.06.11.2002 was marked as Ex.B1, but trial Court on erroneous consideration of the evidence of DHR, not accepted the said receipt which is marked as Ex.B1, therefore, order of the lower Court is illegal and liable to be set aside.

7. I have perused the impugned order dt.17.02.2012. JDR has not disputed his liability and it is his burden to prove the discharge

pleaded.

8. When a decree is passed, any payment by JDR even outside the Court has to be recorded by the Court and unless the part satisfaction is recorded, any plea by JDR with regard to discharge of decretal amount is not permissible.

9. Executing Court considering this rule has not accepted Ex.B1 and disbelieved the version of RWs.1 and 2. I do not find any wrong in the order of the Executing Court nor there any wrong appreciation of facts or law to be interfered by this Court by exercising revisional power. On a scrutiny of the material, I am of the considered view that trial Court rightly negatived the plea of discharge taken by JDR, and as the DHR has duly proved the means of JDR, rightly ordered for his arrest. Therefore, I do not find any grounds to interfere with the findings of the trial Court.

10. For these reasons, this Civil Revision Petition is dismissed as devoid of merits. No costs.

11. As a sequel, miscellaneous petitions, if any, filed in this revision petition, shall stand dismissed.

S. RAVI KUMAR, J

22nd July, 2016.
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