

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP.No.584 of 2016

ORDER :

This Revision is filed under Section 115 of Civil Procedure Code challenging the order dt.09.12.2015 in E.P.No.42 of 2014 in O.S.No.316 of 2010 of the Additional Senior Civil Judge, Eluru.

2. The petitioner herein is the judgment-debtor.
3. The respondent filed the above suit for recovery of money against petitioner on the basis of a promissory note and the said suit was decreed on 01.11.2013.
4. Thereafter, the respondent filed E.P.No.42 of 2014 seeking recovery of a sum of Rs.6,80,045.00, and costs of Rs.29,993.00.
5. Counter-affidavit was filed by petitioner stating that he had no properties and he had no sufficient means to discharge the decretal debt.
6. The respondent examined PWs.1 and 2, and petitioner examined RW.1. In spite of being given several opportunities, the petitioner did not attend the Court, lead any evidence and also did not argue the matter. Therefore, the Court below allowed the E.P. and directed arrest and detention of petitioner in a civil prison by its

order dt.09.12.2015

7. Challenging the same, the present Revision is filed.

8. On 05.02.2016, this Court directed petitioner to deposit 50 per cent of the decretal amount along with costs within a period of two (02) weeks. It is stated by the counsel for petitioner that petitioner complied with the same. This is not disputed by counsel for respondent.

9. The trial court held in para.8 of its order that PWs.1 and 2 have deposed that petitioner / Judgment-Debtor has got a building worth Rs.1 crore and he was getting Rs.5 lakh per month on his chit business apart from income from a cinema theatre by name Gopala Krishna talkie at Eluru. It also recorded that since petitioner had not stepped into the witness box and supported his pleading in the counter, it has to be presumed that he had the means but is deliberately and intentionally not paying the decretal debt.

10. In the absence of any evidence adduced on behalf of petitioner in support of his plea that he had no means, the allegation of respondent which is supported by the evidence of PWs.1 and 2 that petitioner had sufficient property and business was rightly accepted by the Court below.

11. I therefore do not wish to interfere with the order

passed by the Court below. Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

12. The petitioner is granted four (04) weeks' time from to-day to pay the balance E.P. amount to respondent or to deposit the same in the executing court. In default, the order of the Court below will be executed.

13. Miscellaneous applications, pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-07-2016

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