

THE HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.820 OF 2016

ORDER:

The revision is directed against the order dated 18.01.2016 in E.P.No.59 of 2015 in O.S.No.574 of 2005 in the Court of Principal Junior Civil Judge, Kavali. The executing Court through the order impugned in the revision ordered arrest of the revision petitioner.

The operative portion of the order under revision reads as follows:

“To prove the case of the D.Hr., himself is examined as PW.1 and got marked Ex.P1 and Ex.P2 and reiterated his pleading in his chief affidavit. During the cross-examination, though PW.1 admitted that “it is true he filed E.P.No.53/2012 against the J.Dr., for attachment of salary and the same was dismissed on merits “it is needless to say as per provisions under Order 21 CPC, the D.Hr., is at liberty to file several petitions within 12 years from the date of the decree, to realize the decree amount. Further on perusal of the record, the D.Hr., filed E.P.53/2012 for attachment of salary but the present petition filed for arrest of the J.Dr. Hence, there is no bar or hurdle against the D.Hr., to file the present petition to realize the decree amount. Moreover, the during the cross-examination of the J.Dr., as RW.1 clearly admitted that “he is working in Kavali agricultural research station on daily wages and drawn net salary of Rs.12,489/- from August onwards”. The same was revealed by salary particulars of J.Dr., under Ex.P2, which was filed by the D.Hr., and as per Ex.P2, the J.Dr's gross salary is Rs.14,158/- and getting net salary of Rs.12,489/-. Further the J.Dr., admitted that “prior to August 2015, he has also drawn salary”. Under the circumstances, this court opined that the J.Dr., is having sufficient means to pay the E.P amount but he evaded the payment intentionally. Accordingly, these points are answered.”

On 15.02.2016, this Court while ordering notice before admission granted interim stay of arrest subject to the revision petitioner depositing 50% of the E.P. amount within three weeks therefrom. It is matter of record that the condition imposed by this Court is complied with. At the time of hearing, learned counsel appearing for the parties made detailed submissions on the merits and demerits of the order under revision.

Prima facie, after perusing the findings of the Executing Court excerpted above, this Court is of the view that no exception can be taken to the reasons recorded by the executing Court. The learned counsel appearing for the petitioner submits that the revision petitioner may be given six more months time to pay the balance of 50% of the E.P. amount. The counsel appearing for respondent submits that while disposing of the revision, this Court can consider granting reasonable time and confirm the findings of the executing Court and extend the interim order granted on 15.02.2016.

Having regard to the above submissions, while confirming the findings recorded by the executing Court, to meet the ends of justice, the revision is disposed of as follows:

“The revision is disposed of by extending the interim order by four months from today subject to the revision petitioner paying the balance 50% viz., 25% within two months from today and another 25% in two months thereafter. Failure in complying with any one of the conditions, it is made clear that the interim stay shall stand vacated without reference to the Court and the executing Court can take further steps. The respondent is permitted to withdraw

the amount already deposited and that would be deposited, without furnishing security. There shall no order as to costs”.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

Date:11.04.2016

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