

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 5053 OF 2016

ORDER :

This Revision is directed against the order dated 27.09.2016 passed by the learned Senior Civil Judge at Gudur in E.P.No. 54 of 2015 in O.S.No.75 of 2013.

The respondent herein is the decree-holder, who filed O.S. No. 75 of 2013 on the file of the Court of the Senior Civil Judge at Gudur against the petitioner - judgment debtor for recovery of a sum of Rs.2,06,857/- on the foot of the promissory notes dated 10.02.2009, 27.07.2009, 25.10.2010 and 01.11.2010. The said suit was decreed by the judgment dated 19.01.2015, for execution of which, the respondent - decree holder filed E.P.54 of 2015. The learned Senior Civil Judge, while allowing the said E.P., directed issuance of arrest warrant under Order XXI Rule 38 of the Code of Civil Procedure against the petitioner - judgment debtor for his detention in civil prison for a period of three months or till payment of the decretal amount which ever is earlier, on payment of process. It is this order, which has been assailed in this Revision.

This Court, while issuing notice before admission, on 21.10.2016, directed that the order in the Execution Proceedings should be kept in abeyance, subject to the petitioner paying 50% of the decretal amount together with interest and costs within six weeks from that day. A default clause was also added. Today, Sri G. Venkateswarlu, learned counsel appearing for the respondent submits across the Bar that the petitioner - judgment debtor had complied with the said condition and deposited half of

the decretal amount. The challan dated 21.11.2016 produced by Sri M. Subba Reddy, learned counsel for the petitioner would vouch the said fact.

Further, it is also borne out by record that the petitioner, challenging the judgment and decree dated 19.01.2015 in O.S. No. 75 of 2013, had already availed the appellate remedy by filing A.S. No. 26 of 2015 on the file of the Court of the VII Additional District Judge, Gudur. I.A. No. 77 of 2015 has also been filed therein seeking stay of the judgment dated 19.01.2015 and it is pending consideration.

Therefore, keeping in view the pendency of the stay Application so also the fact that the petitioner – judgment debtor has already deposited 50% of the decretal amount, as admitted by the learned counsel for the respondent – decree holder, the ends of justice would be met if the order dated 27.09.2016 in E.P. No. 54 of 2015 is stayed till the disposal of the Application filed by the petitioner in A.S. No. 26 of 2015. Ordered accordingly.

It is needless to mention that the respondent – decree holder is at liberty to seek permission of the Appellate Court for withdrawal of the amount deposited to the credit of E.P. No. 54 of 2015 and the said request shall be considered in accordance with law.

With this, the Civil Revision Petition stands disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

