

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P.NO.5748 OF 2016

O R D E R

Heard the counsel for the petitioner at the stage of admission.

Aggrieved by the order and decree dated 2.8.2016 passed by the court of XIII Additional District Judge, Narasaraopet in E.P.No.1/2016 in O.S.No.29/2009 in dismissing the petition filed by the petitioner/decree holder under Order 21, Rules 37 and 38 of C.P.C. in seeking arrest of the judgment debtor, the present revision has been filed.

The learned counsel appearing for the petitioner submits that the decree in favour of the petitioner was passed on 24.9.2016. After coming to know that the judgment-debtor has been disposing of the property to frustrate the decree, the petitioner filed the present E.P. seeking for his arrest and by the impugned order, the court below dismissed the petition without appreciating the submissions made in the petition.

After going through the impugned order passed by the court below, it is found that the petitioner has not proved that the judgment-debtor is carrying out the business in the go-downs and earning income. He also failed to prove that the judgment-debtor is having cash of Rs.80,00,000/-.

To prove that the property in an extent of Acs.4-03 cents situate at Seetharamapuram Village initially fell to the share of judgment-debtor in the family partition, petitioner examined the banker of the son of judgment-debtor as P.W.2, who produced the legal opinion with documents of various properties marked as Exs.X-1 to X-3. In the cross-examination made on behalf of the

judgment-debtor, P.W.2 admitted that *“as per Exs.X-1 to X-3, one Raghavendra Venkata Ratna Tej is the proprietor of MSN Tobacco and he is the title holder of the property mentioned therein.”*

Accordingly the court below found that the petitioner made an attempt to prove that the property covered under Exs.X-1 to X-3 original belong to the judgment-debtor, but the evidence of P.W.2 negated his claim.

The petitioner also failed to prove that the judgment-debtor is having property either movable or immovable including means to pay the decretal amount.

In view of the facts noted above, I find no illegality or irregularity in the impugned order and the revision is devoid of any merit and the same is accordingly dismissed. No costs.

It is made clear that if the petitioner finds any material that the judgment-debtor would be able to satisfy the decree, he may file the same and the trial court shall decide as per law.

Miscellaneous petitions pending if any, shall stand closed.

SURESH KUMAR KAIT,J

DATE:28—11—2016

AVS