

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P.No.471 OF 2016

ORDER:

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This revision is filed against the order, dated 21-12-2015, passed in E.A.No.903 of 2015 in E.P.No.438 of 2014 in O.S.No.256 of 2010, wherein the Court below refused to set aside the exparte order of attachment of salary of petitioner/Judgment debtor, dated 02-11-2015.

Learned counsel for the petitioner submits that all throughout, the counsel for the petitioner was present and when the application is filed for setting aside the exparte order passed in E.P.No.438 of 2014, only on 02-11-2015 counter could not be filed as petitioner was not granted leave. Without considering the same, the application was dismissed without assigning any reasons. He also submits that salary of the petitioner was not only attached in E.P.No.438 of 2014 in O.S.No.256 of 2010 on the file of Principal Senior Civil Judge, Nandyal, but also in other suits and as such, the petitioner is getting meager amount, which is not sufficient to maintain his family.

Learned counsel for the respondent/Decree-holder submits that sufficient time was given to the petitioner to file counter, inspite of that he could not file counter. He further submits that the petitioner is earning and having sufficient means. The bank account statement of the petitioner, dated 21-01-2016, filed in the material papers shows that the petitioner is having sufficient means to pay the decreetal amount. In spite of that, the petitioner is to evade the payment, filed this petition.

A perusal of impugned order shows that the Court below did not assign any reasons for dismissing the application filed by the petitioner. At the same time, it cannot be said that petitioner is not yet fault.

In view of the same, the impugned order is set aside. But, however, on condition that the petitioner shall deposit 1/3rd of the balance decreetal amount within a period of four weeks from today. After depositing the amount, the Court below to dispose of the E.P. on merits after giving opportunity to the petitioner, in accordance with law, within a period of four weeks thereafter. On such deposit, the respondent/plaintiff is permitted to withdraw the same without furnishing any security. If the petitioner fails to deposit 1/3rd of the balance decreetal amount, within the aforesaid time the impugned order revives and further proceedings will follow.

With the above observations, the revision is disposed of.

As a sequel thereto, miscellaneous petitions, if any, pending in this revision, shall stand closed.

A.RAJASHEKER REDDY,J

01-03-2016
Note:
Issue C.C. in one week.
B/o.
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