

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.1801 of 2015

Between:

Ambati Mallikarjuna

....Petitioner

and

G.Subbarayudu

....Respondent

JUDGMENT PRONOUNCED ON : 04.01.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.1801 of 2015

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ORDER:

The petitioner is the judgment debtor in E.P.No.134 of 2013 in O.S.No.119 of 2009 on the file of the learned V Senior Civil Judge, City Civil Court, Hyderabad. The respondent herein obtained a decree against the petitioner for an amount of Rs.7,70,000/- with interest @ 6% per annum on the principal amount of Rs.5,00,000/- from the date of the suit till the date of realization with costs of Rs.35,128/- by judgment and decree dated 29.03.2012. Pursuant to the said decree, the respondent herein filed E.P.No.134 of 2013 seeking arrest of the petitioner herein. In the said petition, the decree holder was examined as P.W.1 and the

judgment debtor was examined as R.W.1. No documentary evidence was produced before the lower Court. The lower Court allowed the petition of the decree holder by order dated 28.01.2015. Challenging the same, the present Civil Revision Petition is filed.

Learned Counsel for the petitioner submits that the lower Court recorded a finding without any evidence on record stating that the judgment debtor is having sufficient means and avoiding payment of the decretal amount. He relied on the following observations made by the lower Court in paragraph 10 of the order:

“...He is having own residential flat No.105, Rekaha Towers, Sangeethanagar somajiguda, Hyderabad worth Rs.2 crores. It is also got attached by him before judgment which was effected on 21.5.2009. He has also owned houses bearing D.No.13-2-693 at Ananthapuram worth Rs.1,50,000/- and house bearing No.127 at old bus stand at Dharmavaram worth Rs.75,00,000/- four wheeler Scorpio No.AP10 ATF R0557 value of Rs.5,00,000/-. So having sufficient means he is avoiding to pay the decretal amount.”

Learned Counsel for the decree holder is unable to show any evidence with regard to the ownership of the said property by the judgment debtor.

In the circumstances, the finding recorded by the Executing Court is without any basis. The order dated 28.01.2015 is, accordingly, set aside and the Civil Revision Petition is allowed. However, this will not prevent the decree holder from executing the decree in accordance with law against the petitioner herein. The miscellaneous petitions pending in this Civil Revision Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

04.01.2016
vs