

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.3815 of 2016

ORDER :

This Civil Revision Petition is filed challenging the order dt.14.06.2016 in E.P.No.136 of 2015 in O.S.No.96 of 2014 on the file of the Additional Senior civil Judge, Eluru.

2. Petitioner herein is the judgment debtor in the above suit. The respondent herein filed the said suit for recovery of amount against the petitioner which was decreed on 07.07.2014 for a sum of Rs.3,34,200/- with subsequent interest and costs.

3. Since the petitioner herein did not satisfy the decretal debt, even though he was employed as a Driver in the A.P. State Road Transport Corporation and drawing a salary of Rs.20,000/- per month, the decree holder/respondent filed E.P.No.136 of 2015 stating that the petitioner is having immovable and movable properties but he is deliberately not discharging the decretal debt.

4. Petitioner filed counter stating that he did not have sufficient means and properties and that he was only getting a monthly salary of Rs.15,400/- after all deductions and he would pay the decretal amount in installments.

5. Before the Court below, petitioner examined PWs.1 and 2 and the respondent examined himself.

6. By order dt.14.06.2016 the Court below allowed the E.P. It held that the petitioner is having means to make payment but he has not made any payment and there are no bonafides on his part. It therefore directed his arrest and detention in Civil Prison.

7. Challenging the same, this Revision is filed.

8. On 27.08.2016 this Court in CRP.MP.No.4925 of 2016 granted interim suspension subject to the petitioner depositing 1/3rd of the EP amount within four (04) weeks.

9. CRP.V.MP.No.7294 of 2016 is filed to vacate the said order.

10. It is not in dispute that the petitioner has suffered a decree dt.07.07.2014 and he has not satisfied the said decree. He is admittedly employed in the A.P. State Road Transport Corporation and is drawing a monthly salary.

11. Though the petitioner had admitted that he is employed in the RTC, he has not produced his salary slip to indicate the quantum of his salary. Since this information would be exclusively within the knowledge of the petitioner, and it would not be known to the respondent, and suppression of the same by the petitioner shows that the petitioner is not acting in a bonafide manner. It is also not the case of the petitioner that he had paid any installment till the filing of the EP and only after the interim order was granted on 27.08.2016, he did deposited 1/3rd of the EP amount.

12. Since the petitioner is not acting in a bonafide manner, though he admittedly got means to satisfy the decree, I do not find any error of jurisdiction in the order passed by the Court below in allowing the E.P.

13. Therefore, this Civil Revision Petition is dismissed. However the petitioner is granted time till 28.02.2017 to deposit the balance EP amount to the credit of the E.P., if not, the respondent is permitted to execute the decree by arrest and detention of the petitioner in Civil Prison. The respondent is permitted to withdraw the amount already deposited by the petitioner and the amount which the petitioner may deposit on or before 28.02.2017, to the credit of the E.P., without furnishing any security. There shall be no order as to costs.

14. Consequently, miscellaneous petitions pending if any, shall stand dismissed.

M.S. RAMACHANDRA RAO, J

02nd January, 2017.

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