

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.797 OF 2017

ORDER:

Heard Mr.Mahadeva Kanthrigala for petitioner.

No representation for respondent.

The petitioner challenges order dated 27.01.2017 in E.P. No.231 of 2014. Through the order impugned in the revision, the Executing Court has held as follows:

“In view of the above discussion, this Court is of the opinion that the evidence of PW.1, coupled with the evidence of RW.1 and RW.2, and the recitals in Exs.P1 and P2 and Exs.X1 to X3, prove the exact means of the Respondent/Judgement Debtor, and that thereby, the taking of false plea of ‘no means’ by the Respondent/Judgement Debtor, is also established. So, it is clear that unless and until the arrest is ordered, the Respondent/Judgement Debtor will not pay the E.P. amount. Hence, this Court concludes that all the essential ingredients for granting of arrest Warrant against the judgment Debtor has been established by the Petitioner/Decree Holder. Therefore, this Court holds that the Respondent/Judgment Debtor is liable to be arrested and produced before the Court, to enable the Petitioner/Decree Holder to realize the E.P. amount, with subsequent interest and costs from him.

Hence, the points (A) to (C) are answered in favour of the petitioner/Decree Holder.

In the result, the Execution Petition is allowed. Issue Arrest Warrant against the Respondent/Judgment Debtor, under Order 21, Rule 38 of C.P.C. on payment of Process. Call on 27.02..2017.”

On 14.02.2017, this Court directed petitioner to deposit Rs.75,000/- to the credit of E.P. It is submitted that the condition is

complied with. The petitioner could not convince this Court to interfere with the findings recorded by the Executing Court. Therefore, no ground is made out for interfering in the order impugned in the C.R.P. Learned counsel requests extension of stay by five more months from today to deposit the balance amount to the credit of EP. No.231 of 2014. The request is considered and the stay of arrest granted is extended by three more months from today and the petitioner is directed to pay the balance amount in three equal instalments to the credit of EP. If the amount, as directed by this Court, is not deposited, the Executing Court is free to proceed further in the matter.

The revision is disposed of accordingly. No order as to cost.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 30.06.2017
Sp

S.V.BHATT,J

