

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.4103 of 2012

ORDER:

Judgment debtor in E.P.No.39 of 2011 in O.S.No.30 of 2008 on the file of Court of Junior Civil Judge, Prathipadu, East Godavari district is the petitioner in the present revision filed under Section 115 of Code of Civil Procedure.

2. For enforcement of a money decree, the respondent herein filed E.P.No.39 of 2011 for arrest of the judgment debtor/petitioner herein under Order XXI Rule 37 of CPC. Before the Court below, the petitioner herein raised two contentions; namely (1) In another Execution Petition, the salary of the petitioner was ordered to be deducted and (2) Respondent herein has alternative remedy of getting salary of the petitioner attached, as such, the present application by way of **arrest** is not maintainable. The Court below, in fact, considered both the contentions and with regard to first contention, the learned Junior Civil Judge recorded a categorical finding that the petitioner herein failed to produce any evidence to show that in another E.P., the salary of the petitioner herein was directed to be attached. With regard to second contention, obviously keeping in view the provisions of Order 21 Rule 37 of CPC and the law laid down by this Court that the decree holder can choose any one of the modes of execution available, the learned Judge turned down the second contention. In the considered opinion of this Court, the reasons assigned by the learned Junior Civil Judge in the impugned order cannot be faulted with and this Court does not find any valid reason to meddle with the well articulated order passed by the Court below.

3. For the aforesaid reasons, the C.R.P. is dismissed. However, the petitioner is granted three months time to pay the entire due amount to the respondent. It is made clear that in the event of failure to adhere to the said condition, it is open for the Respondent herein to proceed in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 9.11.2017  
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