

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.894 of 2017

ORDER:

The judgment debtor in E.P.No.225 of 2015 is the revision petitioner. The arrest order dated 14-12-2016 is under challenge in the instant Civil Revision Petition.

On 28-02-2017, while ordering notice before admission, this Court has granted stay of arrest subject to the petitioner depositing 50% of the E.P. amount on or before 31-03-2017.

Sri K.Staram states that he has no information of the petitioner complying with the condition.

The statement is placed on record.

Adverting to the challenge, the learned counsel has substantially represented the grounds raised in the counter affidavit by the revision petitioner.

The Executing Court, having regard to the status of petitioner *namely* that he is an employee, drawing gross salary of Rs.48,000/-, net salary of Rs.40,000/-, taking note of the oral evidence of PWs.1 and 2 and RW.1 read with Exs.A-1 to A-3, recorded the following findings:-

“The other contention of the petitioner is that the respondent is working as a Teacher and drawing monthly salary of Rs.60,000/-.

On the other hand, the respondent is not denied the said fact, but claiming that his gross salary of Rs.48,000/- and net salary of Rs.40,000/-. But, the respondent not filed any of his salary certificate to that effect. However, even if the admitted net salary of

respondent is taken into consideration, it seems that the respondent is having sufficient means, but the respondent not paid the decretal amount or any substantial part thereof for the last 30 months, since the decree is passed on 1-5-2014.

As seen from the record, the E.P. is filed on 3-5-2015, claiming a sum of Rs.3,13,867/-. The respondent received notice on 29-10-2015 i.e., about 14 months ago. But he did not chosen to pay any amount monthly to show his bonafides. As such, the contention of the respondent that the Execution Petition against the respondent, who is salaried employee cannot be accepted.

As seen from the evidence available on record, the petitioner proved that the respondent is getting considerably agricultural income, out of the land own by him an extent of Ac.3-79 cents and also drawing net salary of Rs.40,000/- p.m. Hence, it is held that the respondent is having sufficient means to pay the decretal amount, but refused to pay the same. Hence, he is liable for detention, till realization of E.P. amount, subject to Sec.58 C.P.C."

This Court is of the view that no tenable ground is raised against the findings recorded by the Executing Court by the revision petitioner. I do not see any illegality warranting interference with the order under revision.

The civil revision petition is dismissed accordingly.

As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

Date: 10-04-2017  
Prv

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Prv