

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.12278 of 2017

ORDER:

Heard the learned Counsel for the petitioner.

The petitioner states that he filed a suit against respondent No.6, the number of which is not mentioned in the affidavit, for recovery of an amount of Rs.3,00,000/- along with interest at 12% per annum. The said suit was decreed on 30.08.2011 and respondent No.6 has not paid the decretal amount. He then filed E.P.No.33 of 2012 before the learned Senior Civil Judge, Amalapuram, for recovery of an amount of Rs.6,54,278/-. The petitioner further states that respondent No.6 also suffered two other decrees and execution petitions were pending. Though respondent No.6 preferred a Civil Revision Petition in C.R.P.No.4041 of 2014, the same was dismissed on 20.07.2016. The petitioner states that, though the learned Senior Civil Judge, Amalapuram, issued an official memorandum directing respondent Nos.3 to 5 to provide Police aid for the assistance of the Field Assistant at the time of execution of warrant in E.P.Nos.33 of 2012, 52 of 2012 and 43 of 2012 on 16.02.2017 and 13.03.2017, respondent Nos.3 to 5 are not taking any steps and not providing Police aid to arrest respondent No.6. Challenging the same, the present Writ Petition is filed.

Learned Counsel for the petitioner brought to the notice of this Court the official memorandums issued by the learned Senior Civil Judge, Amalapuram, on 16.02.2017 and 13.03.2017. No material is placed before this Court with regard to the intimation by the Field Assistant for execution of the warrants in E.P.Nos.33 of 2012, 52 of 2012 and 43 of 2012 in O.S.Nos.42 of 2008, 80 of 2010 and 43 of 2009, and in the absence of such intimation and requisition, it cannot be said that respondent Nos.3 to 5 were negligent. The petitioner may be the decree holder and an order of arrest might have been passed by the lower Court. If the order of arrest has to be executed, proper procedure has to be followed and the same has to be intimated to the concerned Police. Without intimation, it cannot be said that the Police were not extending the necessary assistance for execution of the warrant. If the Police are not extending the assistance, it can be brought to the notice of the concerned Court, which issued the official memorandum, to take appropriate action.

The Writ Petition, in the present circumstances, is not maintainable and the same is, accordingly, dismissed at the admission stage. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

07.04.2017
vs