

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.3805 OF 2017

DATED:04-08-2017

Between:

Meesala Narasinga Rao

... Petitioner

And

Karri Srinivasa Rao
and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. K. Purushotham

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition arises out of order dt.09.06.2017 in I.A. No.366 of 2017 in I.P. No.02 of 2017 on the file of the Principal Senior Civil Judge, Gajuwaka, whereby she has dismissed the said I.A. filed for protection of the petitioner.

2. I have heard Mr. K. Purushotham, learned counsel for the petitioner, and perused the record.

3. The petitioner filed the aforementioned insolvency petition to declare him as an insolvent. In the said petition, he has filed the aforementioned I.A. under Section 31 of the Provincial Insolvency Act, 1920 (for short, 'the Act'), to grant interim protection order. In the affidavit filed in support of this application, the petitioner has claimed that he is a victim of demonetization of high value notes, as a result of which he was forced close down his business and unable to discharge his debt liability to the extent of Rs.26,75,000/-. He has further averred that his creditors, including the respondents, are bent upon to manhandle him and therefore he filed the aforementioned I.A. The lower Court has dismissed the said application on the ground that the petitioner did not place any document to *prima facie* support his plea that there is severe threat to his life at the hands of the respondents and other creditors. Feeling aggrieved by this order, the petitioner filed this revision petition.

4. Section 31 of the Act protects an insolvent in respect of whom an adjudication order has been made, from arrest or detention. The *sine qua non* for maintaining the application under Section 31 of the Act is that the applicant must be an insolvent and adjudicated as such by the competent court. On the petitioner's own showing I.P. No.2 of 2017 filed for adjudging him insolvent is pending and it is only in that petition that he

has filed I.A. No.366 of 2017. Therefore, this application is not maintainable. Furthermore, an order under Section 31 of the Act is made to protect an insolvent from arrest and detention. While the petitioner has not apprehended any arrest or detention, which in legal parlance must be understood as arrest or detention by a lawful authority, he sought for protection from physical harm being caused by his creditors. Such protection is not envisaged by Section 31 of the Act. The lower Court has completely failed to understand the true scope of Section 31 of the Act and dismissed the application on erroneous reasons. However, as the application itself is not maintainable for the aforementioned two reasons, the dismissal of the I.A. though for wrong reasons cannot be interfered with.

5. The civil revision petition is therefore dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.4998 of 20167 shall stand disposed of as infructuous.

04-08-2017

bnr

C.V. NAGARJUNA REDDY, J