

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.5336 OF 2017

ORDER:

Vide the present petition, the petitioner has challenged the order dated 12.09.2017 passed in E.A.No.129 of 2017 in E.P.No.286 of 2013 in O.S No.76 of 2011 by the Principal Senior Civil Judge, Guntur.

2. The petitioner has filed a petition before the Principal Senior Civil Judge, Guntur, under Section 59 (1) (2) of CPC to cancel the Rule 38 CPC warrant alternatively release the 2nd Judgment Debtor i.e., the petitioner herein, in the event of arrest.

3. The arrest warrant was issued against the petitioner and the same was returned on 19.06.2017 as door locked. The aforesaid E.A.No.129 of 2017 has been filed before the court below on 05.06.2017 on the ground that the petitioner is suffering with ailment, unable to attend his natural pursuits and he could not move from the bed. The Court below has dismissed the petition on the ground that, to the effect of treatment or admitted in the hospital, the petitioner has not filed any document in support of his petition. Further, the Court below has averred that under the provision of law, Section 59 (1) of CPC even after the warrant of arrest is issued, the Court can cancel on the ground of his serious illness. If the judgment debtor/petitioner herein is arrested

and he is unable to move from the bed, the Court may release him but ought not to be detained in civil prison. In addition to above, the petitioner has not filed any documents of the ailment to prove that he is confined to bed either before the Court below or this Court.

4. Finding no merit in the instant petition, the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date : 13-10-2017
Gvl

