

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2312 of 2017

ORDER:

1) Assailing the order dated 20.03.2017, passed in O.E.P.No.33 of 2016 in O.S.No.118 of 2013 on the file of the Additional Senior Civil Judge, Madanapalle, wherein an application filed under Order XXI Rule 37 and 38 of C.P.C. to commit the J.Dr. to civil prison, for recovery of E.P. amount, was allowed, the present Civil Revision Petition is filed under Section 115 of C.P.C.

2) The facts in issue are as under:

The respondent herein filed O.S.No.118 of 2013, for recovery of Rs.3,44,000/- with interest and costs. The said suit was decreed on 08.09.2014, directing the petitioner to pay Rs.3,44,000/- with interest at 12%p.a. on Rs.2,00,000/- from the date of suit till the date of decree and at 6%p.a. from the date of decree till realization. Since the petitioner failed to comply with the decree, the respondent herein filed O.E.P.No.33 of 2016, to arrest the petitioner and commit him to civil prison.

3) A counter came to be filed by the petitioner contending that he is not having any movable or immovable property and

he has no source of income. It is further stated that he preferred second appeal, which is pending consideration.

4) After considering the oral and documentary evidence, the trial Court allowed the said petition. Challenging the same, the present Civil Revision Petition is filed.

5) By an order dated 26.04.2017, this Court granted interim stay of arrest subject to the condition of the petitioner depositing 1/3rd of the E.P. within a period of two weeks from that day, in default, the stay shall stand cancelled. On 16.06.2017, learned counsel for the petitioner represented that the interim order granted by this Court has been complied with and for payment of balance amount, the matter was referred to Lok Adalat.

6) Today, when the matter is taken up for hearing, it is brought to the notice of the Court that the interim order dated 26.04.2017 was not complied with by the petitioner. Therefore the stay granted by this Court gets vacated. Learned counsel for the petitioner submits that basing on the instructions given by his counter part, he represented that the interim order was complied with on 16.06.2017.

7) Having regard to the circumstances stated above and since the petitioner failed to make out a case to show that he has no source of income to pay the decretal amount, I see no

reasons to interfere with the order passed by the Court below.

8) Accordingly, the Civil Revision petition is dismissed. There shall be no order as to costs. Consequently, the Miscellaneous Petitions pending if any shall stand closed.

JUSTICE C. PRAVEEN KUMAR

04.08.2017
gkv



