

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**CIVIL REVISION PETITION No.2289 OF 2018**

**ORDER :**

This Civil Revision Petition is filed against docket order dated 29.03.2018 in E.P.14 of 2017 in O.S.No.470 of 2009, wherein and whereby the Court below, due to absence of the petitioner issued arrest warrant under Order XXI Rule 37 (2) of CPC for securing the presence of the petitioner/J.Dr.

Heard learned counsel for the petitioner, who submits that when EP No.14 of 2017 is pending, the Court below has no power to issue order of Arrest Warrant of petitioner and that even if petitioner is not present, the Court below can proceed with enquiry in the absence of petitioner, but cannot order for arrest of petitioner.

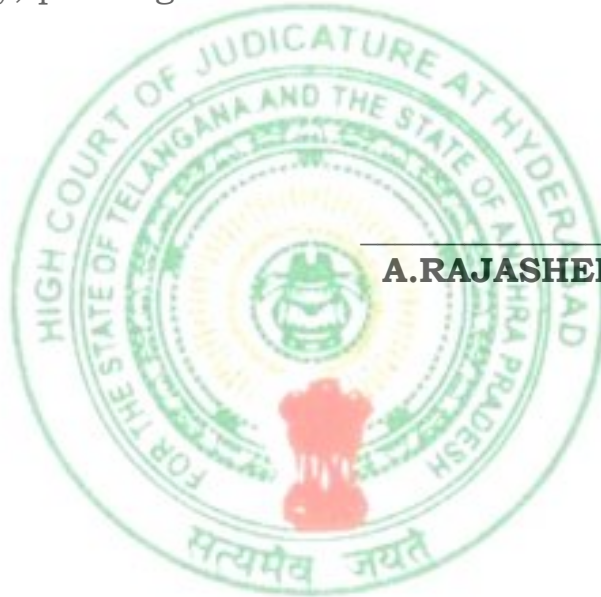
On the other hand, learned counsel for the respondents submits that though several opportunities are granted, the petitioner/Judgment Debtor is not at all cooperating in the enquiry in E.P. He submits that the Court below having no other go, issued an order of arrest.

In this case, it is to be seen that EP No.14 of 2017 itself is pending before the Court below. Admittedly, no application is filed under Order XXI Rule 37 (2) of CPC seeking arrest of petitioner/J.Dr. As such, in the absence of such application, the Court below ought not to have passed the impugned order of arrest against the petitioner/J.Dr.

In view of above facts and circumstances, the impugned order dated 29.03.2018 to the extent of issuance of Arrest Warrant against the petitioner/J.Dr is set aside and the Court below is directed to dispose of the EP itself within a period of six weeks from the date of receipt of a copy of this order. If the petitioner fails to appear, the Court below can take appropriate steps setting him exparte and proceed with enquiry.

Accordingly, this Civil Revision Petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

03.08.2018  
kvs



---

**A.RAJASHEKER REDDY, J**

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

CIVIL REVISION PETITION No.2289 OF 2018



kvs