

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.4113 of 2018

ORDER:

Proof of service on respondent filed, called absent with no representation. This Court by docket order, dated 20.07.2018, while ordering notice to respondent-decree holder, granted stay of execution of arrest warrant pursuant to the order, dated 27.06.2018 in E.P.No.47 of 2016 in O.S.No.63 of 2012 and the same was subject to deposit of half of the decretal amount and proof of compliance since not filed on 24.08.2018, posted to a week to file proof of compliance and again on 07.09.2018 when the matter called, Judgment Debtor taken time by change of Advocate and even today to which date the matter is posted, there is no proof of compliance filed. It is clear that the order is not complied with.

2. When coming to the merits on the correctness of the order of the learned Executing Court, dated 27.06.2018 under Order XXI Rules 37 and 38 and Section 55 CPC, the decree holder came to the box as P.W.1 and filed Ex.A.1, which is a relinquishment deed showing the property thereunder the Judgment Debtor possessed and but for testing by cross-examination, there is no oath from the judgment debtor much less to dispute the means covered by the document. It is therefrom, having observed that having sufficient means, the judgment debtor is avoiding to pay the decree debt and arrest warrant will be remedy sought to recover. Once such is the case, there are no merits even in the revision.

3. Hence, the Civil Revision Petition is dismissed for the Executing Court to proceed with the matter. However, granting one month from today to deposit the entire decretal amount as per the arrest warrant by the date of deposit, failing which the Executing Court can proceed further after expiry of one month from today, without any further reference to the Court.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

Dr. B. SIVA SANKARA RAO, J

SEPTEMBER 11, 2018
YVL



HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO



CIVIL REVISION PETTION No.4113 of 2018

Date: 11.09.2018

YVL