

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.3549 OF 2012

ORDER:

Heard Mr.Ramanna Dora for petitioners and Mr.Ravi Kumar for respondent No.1

The grievance against the order under revision is that the executing Court issued arrest warrant to the judgment debtors 1 to 3, 6 and 8 subject to payment of process. Now Mr.Ramanna Dora contends that sending all the judgment debtors to jail is illegal and contrary to the principle laid down in Jolly George Varghese v. The Bank of Cochin¹. Therefore he prays for setting aside the order under revision and leave it open to the 1st respondent to take up execution afresh.

Mr.Ravi Kumar contends that once revision petitioners are unable to point out infirmity in the findings recorded by the executing Court vis-à-vis their refusal to pay the EP. amount or the capacity to pay the EP. amount, the order under revision need not be set aside. This Court in exercise of its jurisdiction under Section 115 of CPC confines arrest to one or the other judgment debtors, so that the EP already set in motion is completed. He further submits that the suit was decreed on 06.09.2006. EP. was filed in the year 2010. The order under revision was passed on 29.06.2012. Taking out fresh execution as suggested by the petitioners is not warranted and the arrest of J.Drs can be restricted. The 1st respondent/Decree

¹ AIR 1980 SC 470

Holder is satisfied, if the execution is continued against one or the other judgment debtors.

I have perused the record and also the decision on which Mr.Ramanna Dora relies in support of his contention. This Court is of the view that the 1st respondent wants execution and is not interested in number of J.Drs who are arrested and sent to civil prison. Therefore, as suggested by Mr.Ravi Kumar, the arrest warrant is restricted to first revision petitioner and judgment debtor Nos.6 and 8.

The C.R.P. is ordered as indicated above. The Executing Court is directed to dispose of the E.P. within four weeks from the date of receipt of a copy of this order.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



S.V.BHATT, J

Date:12.09.2018
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