

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.5013 OF 2018

ORDER:-

This Civil Revision Petition is arising out of the order, dated 25.07.2018, passed in E.P.No.18 of 2015 in O.S.No.217 of 2012 on the file of the Principal Junior Civil Judge, Badvel, whereunder and whereby, the revision petitioner/judgment debtor was ordered to be committed to civil prison for a period of three months on payment of process.

2. Heard the learned counsel for the petitioner/J.Dr. and the learned counsel for the respondent/D.Hr.

3. The case of the petitioner is that the respondent is the decree holder, who has filed a suit in O.S.No.217 of 2012 on the file of the Junior Civil Judge, Badvel, for recovery of an amount of Rs.40,000/- with interest. The suit was decreed against the petitioner/J.Dr. The petitioner has not paid the decretal amount and therefore, the respondent/D.Hr. has filed execution petition in E.P.No.18 of 2015 under Order XXI Rule 38 C.P.C. for recovery of decretal amount of Rs.60,314/- and also sought for sending the J.Dr. to civil prison, if he fails to pay the execution petition amount, as he is evading to pay the decretal amount having sufficient means to pay.

4. During the arguments, learned counsel for the petitioner/J.Dr. submits that the J.Dr. is ready to pay an amount of Rs.55,000/- along with costs of Rs.4,060/- for settlement of the matter. Learned counsel for the respondent/D.Hr. submits that

the respondent is willing to settle the matter if the J.Dr. is ready to pay the decretal amount of Rs.60,314/-.

5. Having regard to the facts and circumstances of the case, since the contention of the J.Dr. is that he is unable to pay the entire decretal amount, as he has no sufficient means to pay, and as he is coming forward to pay an amount of Rs.55,000/- along with costs of Rs.4,060/-, it would be appropriate if the Civil Revision Petition is disposed of directing the revision petitioner to pay an amount of Rs.55,000/- along with costs of Rs.4,060/-.

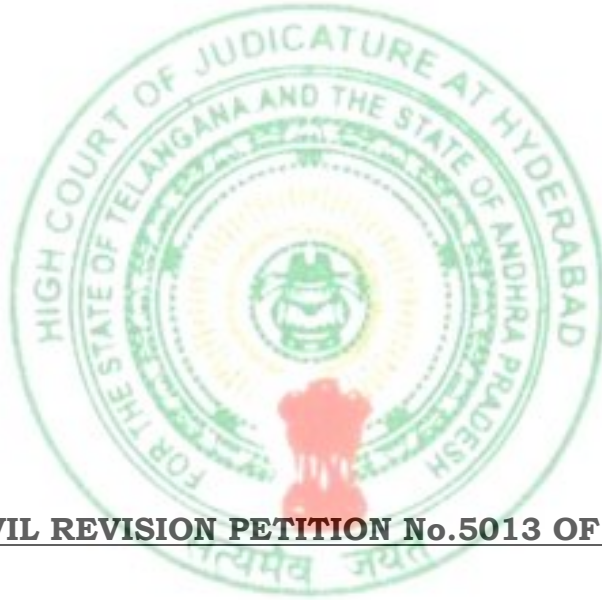
6. In view of the foregoing reasons and the understanding between the learned counsel for the petitioner and the learned counsel for the respondent, the Civil Revision Petition is disposed of directing the petitioner/J.Dr. to pay an amount of Rs.55,000/- along with costs of Rs.4,060/- before the trial Court in two equal instalments excluding the amount already deposited by the petitioner/J.Dr. before the trial Court. The first instalment shall be paid on 31.12.2018 and the second instalment on 31.01.2019. On such deposit, the respondent/D.Hr. is permitted to withdraw the amount without furnishing any security. In the event of failure to deposit the amount as stated above, the respondent/D.Hr. is at liberty to proceed against the petitioner/J.Dr. There shall be no order as to costs in this revision.

7. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

JUSTICE GUDISEVA SHYAM PRASAD

Date : 26.11.2018
AMD

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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Dated: 26.11.2018

AMD