

HONOURABLE DR.JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION NO. 5210 OF 2018

ORDER :

This Civil Revision Petition is filed by the Revision Petitioners/Judgment-debtors under section 115 of C.P.C., questioning the orders dated 29/8/2018 passed in E.P.No. 176 of 2017 in O.S.No. 308 of 2012 by the First Additional Junior Civil Judge, Nellore, allowing the Execution Petition filed by the respondent/decreed holder under Order-21, Rule 32 [1] of C.P.C., seeking to arrest the Revision Petitioners/Judgment debtors and commit them to Civil Prison. The same is the impugment in this Revision.

2. It is the oral submission of the learned counsel for the Revision Petitioners/judgment debtors are that the findings of the lower court as if the judgment-debtors willfully disobeyed the orders of injunction in detaining them in civil prison is contrary to law, unsustainable and baseless. Leave about the subject property is only bath room and lavatory under use by both family members earlier and thereby the same is liable to be set aside. The counsel for the Revision Petitioners drawn the attention of this Court to the wording of Order-21, Rule-32 of CPC which no doubt speaks twin requirement to be satisfied of opportunity of obeying and

willfully disobeyed. The same no doubt to be pleaded in the Execution Petition to be filed under Order-21, Rule 11 read with 32 CPC particularly from column No. 12. A perusal of the Execution Petition Para No.12, Page No.3 in the prayer speaks that the judgment-debtors willfully violated the permanent injunction orders passed by the Court in the suit, thereby to put them in civil prison else they will suffer irreparable loss and injury. The Revision Petitioners are the judgment-debtors, who suffered the decree once not in dispute to say that from the very decree that made final they have the opportunity to obey and so far as the willful disobedience concerned there is a mention in the prayer referred supra though not in so many details. In the course of hearing the Revision, the Judgment debtors undertook to file affidavits and filed affidavits, wherein they categorically mentioned that they undertake that they will obey the injunction decree throughout its subsistence and they have no intention to disobey and they are the law abiding citizens.

3. Having regard to the above, by recording the same, the Civil Revision Petition is disposed of setting aside the order of sending the Revision Petitioners to civil prison. It is made clear that in future, if there is any violation of the injunction, remedy of the decree holder available not only under Order-21, Rule-32 of C.P.C. but also under section 151 of C.P.C. including to seek police-aid.

4. As a sequel, miscellaneous petitions if any, pending in this Civil Revision Petition shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO.



12/09/2018
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NB: Furnish CC tomorrow

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[RESULT : DISPOSED OF]



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