

**HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**CIVIL REVISION PETITION No.5487 OF 2018**

**ORDER:**

This civil revision petition is filed by the petitioner/judgment debtor against the order dated 12.04.2018 passed by the Junior Civil Judge, Huzurnagar, under Order XXI Rule 48 CPC, in E.P.No.14 of 2017 in O.S.No.229 of 2014 directing the Executive Engineer Rural Water Supply, Suryapet, who is the Garnishee, to remit the amount mentioned in the order to the court.

2. The petitioner and respondent entered into a compromise before the Lok Adalat Bench at Huzurnagar, whereby the award dated 10.09.2016 was passed by the Lok Adalat Bench with the following terms of compromise:

1. *"The defendant agreed to pay Rs.95,000/- (Rupees ninety five thousand only) to the plaintiff towards full and final settlement of suit claim and the same and the defendant agreed to pay in two installments Rs.50,000/- on 10.10.2016 and the remaining Rs.45,000/- on 25.11.2016 and the plaintiff agreed to receive the said amount in two installments as mentioned above.*
2. *The court fee of Rs.3,266/- paid on the plaint by the plaintiff is hereby ordered to refund the same to the plaintiff.*
3. *If the defendant fails to pay as per the compromise the plaintiff has right to claim entire amount from the defendant as per suit promissory note and the defendant agreed for the same.*

4. *The plaintiff has agreed to withdraw C.C.No.43/2016 laying on the file of the J.F.C.M. Court, Huzurnagar forthwith.*
5. *There is no order as to the costs, since the parties agreed to bear their own costs and the petitioner and defendant are further agreed with that in future they are not filed any Civil and Criminal cases against with each other.”*

3. Learned counsel for petitioner would submit that, in strict compliance of the terms of the compromise, the revision petitioner/judgment debtor paid Rs.50,000/- to the respondent/decree holder, but the second installment of Rs.45,000/- is concerned, there was a delay of five months because the petitioner/judgment debtor was hospitalized and hence, could not pay the amount. Since the amount was not paid, invoking the clause (3) of the compromise, the respondent/decree holder filed E.P. for regular suit amount and obtained attachment of his salary and the same is challenged in the instant civil revision petition.

4. As can be seen from clause No.(3), it reveals that if the defendant fails to pay as per the compromise, the plaintiff has right to claim entire amount from the defendant as per suit promissory note and the defendant agreed for the said course. Since the petitioner/defendant/judgment debtor failed to pay the second installment by due date i.e., 25.11.2016, it appears the respondent/plaintiff invoked clause No.(3) of the above order and executed the decree for the entire suit

amount. The legality of his action cannot be questioned in view of the terms of the award. Of course, the plea of the petitioner/judgment debtor is that during the relevant period, he was hospitalized and bed ridden and therefore, there was no willful default on his part. Since the award in question is a compromise award and the terms are unequivocal, as per which, the respondent/plaintiff executed the decree, the same cannot be legally challenged. The petitioner, if advised, can only request the decree holder to consider his case.

5. The civil revision petition is accordingly dismissed at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

**27.09.2018**  
**SS**

**U.DURGA PRASAD RAO, J**

