

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP. No.106 of 2019

ORDER:

Heard both sides.

2. This Revision is filed challenging the order dt.27.11.2018 passed in E.P. No.6 of 2016 by the VIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.

3. The petitioner herein is the JDR.

4. A decree was passed on 03.12.2014 in O.S. No.857 of 2013 against the petitioner and in favour of the respondent for recovery of a sum of money amounting to Rs.32,16,213/- including costs.

5. Since a decree was not satisfied E.P. No.6 of 2016 was filed by the respondent to execute decree by arresting the respondent/JDR.

6. Counter affidavit was filed by the petitioner opposing to grant relief in the E.P.

7. On 27.11.2018 the petitioner was absent, though representative of the respondent was present, and on that basis petitioner/JDR was set *ex parte* and arrest warrant was issued under Order XXI Rule 37 of CPC and the matter was adjourned to 23.01.2019 for conducting means enquiry of the petitioner.

8. Assailing the same, this Revision is filed.

9. Counsel for the petitioner contends that when the main E.P. itself is for the arrest of the petitioner, pending the said E.P., on the ground that the petitioner was absent or his counsel was absent, an arrest warrant against the petitioner could not have been issued.

10. Though the counsel for the respondent sought to sustain the said order, I agree with the submission of the counsel for the petitioner that when the main E.P., itself is for arrest of the petitioner, pending the said E.P., there cannot be arrest of the petitioner on the ground that there was no representation on his behalf in the Executing Court.

11. Impugned order therefore, cannot be sustained. It is accordingly, set aside and the arrest warrant issued against the petitioner by the Court below is recalled.

12. The petitioner is directed to appear before the Court below on 01.07.2019 and the Court below shall continue proceedings in the E.P., after giving opportunity to both sides to adduce evidence and then decide it in accordance with law.

13. Accordingly, this Revision is allowed. There shall be no order as to costs.

14. As a sequel, miscellaneous applications if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 12.06.2019

Note: Furnish C.C. in three days.

B/o.

LSK

