

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

C.R.P.No.590 OF 2017

ORDER:

This civil revision petition, under Section 115 CPC, is directed against the order dated 06.01.2017 in E.A.No.17 of 2016 in E.P.No.545 of 2015, on the file of the Senior Civil Judge, Wanaparthi, wherein the said application filed by petitioner – judgment debtor under Order XXI Rules 26 and 29 read with Section 151 CPC for stay of execution proceedings in E.P.No.545 of 2015, was dismissed.

2. Heard learned counsel for the petitioner and none appeared for the respondent. Perused the material on record.

3. The respondent-decree holder filed the suit for recovery of money against the petitioner herein and the said suit was decreed *ex parte* on 23.04.2014 directing the petitioner herein to pay a sum of Rs.2,00,400/- with interest at 12% per annum from the date of the suit till the date of decree on the principal amount of Rs.1,00,000/- and with future interest at 6% per annum from the date of decree till the date of realization.

4. The respondent-decree holder filed E.P.No.545 of 2015 for realization of the decretal amount. The petitioner on receipt of notice in the Execution Proceedings appeared before the trial court and filed E.A.No.17 of 2016 under Order XXI Rules 26 and 29 read with Section 151 CPC for stay of the Execution Proceedings. The said application was dismissed by the trial court vide order dated 06.01.2017. Aggrieved by the same, the present civil revision petition is filed.

5. Learned counsel for the petitioner – judgment debtor submits that at the time of admission of the CRP, as per the orders of this court dated 24.08.2018, they have deposited an amount of Rs.1,00,000/- to the credit of E.P.No.545 of 2015 and the respondent – decree holder was already permitted to withdraw the said amount. Learned counsel further submits that they have filed an application vide I.A.No.401 of 2016 under order IX Rule 13 CPC for setting aside the *ex parte* decree passed against the petitioner dated 23.04.2014. Therefore, the learned counsel prays to grant stay in the Execution Proceedings.

6. A perusal of the record would disclose that an *ex parte* decree was passed against the petitioner herein for recovery of money and the

respondent – D.Hr., filed execution proceedings in E.P.No.545 of 2015 for realization of the said decretal amount.

7. Considering the submissions of the learned counsel for the petitioner that pursuant to the orders of this court, they have deposited an amount of Rs.1,00,000/- before the trial court and as the application, filed to set aside the *ex parte* decree under Order IX Rule 13 CPC in I.A.No.401 of 2016, is pending, I am of the view that in the interest of justice, it would be proper to grant interim stay in E.P.No.545 of 2015 till the disposal of I.A.No.401 of 2016.

6. Accordingly, the civil revision petition is allowed. There shall be no order as to costs.

7. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

A.SANTHOSH REDDY, J

Date: 16.11.2022

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