

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

CIVIL REVISION PETITION NO.351 OF 2024

Between:

Kotha Sathaiah

... Petitioner

And

Chitneni Shobha

... Respondent

JUDGMENT PRONOUNCED ON: 15.04.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

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> Head Note:

!Counsel for the Petitioner: Mr. N.Hari Prasad

^ Counsel for Respondent : Mr V.Rajender Rao

Cases Referred:

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**CIVIL REVISION PETITION NO.351 OF 2024****ORDER:**

Heard Mr N.Hari Prasad, learned counsel appearing on behalf of the petitioner and Mr V.Rajender Rao, learned counsel appearing on behalf of the respondent.

2. This Civil Revision Petition is filed challenging the propriety and legality of the Order dated 09-01-2024 passed in E.P.No. 32 of 2018 in O.S.No. 85 of 2017 by the Additional Senior Civil Judge-cum-Assistant Sessions Judge at Mancherial Camp Court at Luxettipet, whereby the petition filed by the Decree Holder under Order 21 Rule 37 of the Civil Procedure Code was allowed.

3. For the sake of convenience, the parties are referred to as they are arrayed in the execution proceedings before the lower Court.

4. The decree holder filed E.P.No. 32 of 2018 seeking direction to the Judgment Debtor to pay the decretal amount of Rs.5,53,660/- and in default thereof to issue warrant of

arrest against the Judgment Debtor for his detention in civil prison.

5. As can be seen from the affidavit of the decree holder in support of the execution petition, the plea of the decree holder is that he filed the suit against the Judgment Debtor for recovery of money and the suit was settled before Lok Adalat and Award dated 18-02-2018 was passed in favour of the decree holder and that the Judgment Debtor is due to pay decretal amount of Rs.5,53,660/- and the judgment debtor has not paid the decretal amount though the judgment debtor has means to pay it and that is why the decree holder filed the execution petition for his arrest and detention.

6. The judgment debtor filed counter admitting the fact that the suit was settled before Lok Adalat and the Award was passed, the judgment debtor however, could not sell his properties, and hence, the judgment debtor could not pay the decretal amount and that the judgment debtor is ready to pay the said decretal amount, if six months time is granted.

7. During the enquiry, the decree holder examined herself as PW1 and got marked four documents. The judgment debtor did not adduce any oral or documentary evidence.

8. After considering the evidence on record and after hearing both sides, the lower Court came to the conclusion that the judgment debtor though has sufficient means failed to pay the decretal amount and accordingly, ordered the detention of the judgment debtor in civil prison for a period of two months on payment of process and subsistence allowance.

9. Feeling aggrieved by the order of the executing Court, the judgment debtor preferred the present revision petition.

PERUSED THE RECORD

10. There is no dispute about the fact that the judgment debtor is due to pay the decretal amount. The only plea taken by the judgment debtor is that the judgment debtor could not pay the decretal amount for the reason that the judgment debtor could not sell his properties and the judgment debtor is ready to pay the amount, if six months time is granted. The

decree holder filed the suit in the year 2017 and got attached the house property bearing Door No. 3-424/7 of the judgment debtor and the same is evident from Ex.P.3 of Order in I.A.No. 370 of 2017 in O.S. No. 85 of 2017. But the judgment debtor disobeying the order of attachment, sold away that property to third parties vide Ex.P.1 Sale Deed which shows that the property was sold for Rs.45 lakhs. From this, it is quite clear that the judgment debtor sold the property during the pendency of the suit and prior to filing of the said execution petition. Therefore, it follows that the judgment debtor had sufficient means to pay the decretal amount. The plea of the judgment debtor seeking extension of six months time is not acceptable for the simple reason that the executing court cannot go beyond the decree by ordering extension of time for payment of the decretal amount. Since the judgment debtor failed to pay the decretal amount even though he had got sufficient means to pay it, the executing Court rightly ordered the judgment debtors civil arrest and detention.

11. For the foregone reasons, this Court does not find any impropriety or illegality or irregularity in the impugned order

dated 09.01.2024 passed in E.P.No.32 of 2018 in O.S.No.85 of 2017 by the Additional Senior Civil Judge-cum-Assistant Sessions Judge at Mancherial Camp Court at Luxettipet and accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Dated: 15.04.2024

Note: L.R. copy to be marked
b/o
kvrn