

THE COURT OF THE JUNIOR CIVIL JUDGE::THAMABALLAPALLE

Present :Sri **J.Anajaiah**,
Junior Civil Judge.
Thamaballapalle.

Dated this the 25th day of April, 2019

E.P. No.1 of 2019

in

OS.No.33 of 2018

Between

M.Lakshmiddevamma , W/o Venkata Reddy, age: 45 yrs.
Hindu, cultivation, R/at Diguwapalle, H/o Gindlapalle
village, Thamballapalle Mandal, Chittoor District.

... Decree Holder.

And

C.Madhukar Reddy, S/o C.Mal Reddy, age: 45 yrs.
Hindu, Cultivation, R/at Chennuvaripalle,
H/o Devulacheruvu, Molakalacheruvu Mandal,
Chittoor District.

... Judgment Debtor.

This petition coming before me on 23.04.2019 for final hearing in the presence of Sri S. Gaffer Saheb, Advocate for Decree Holder and the Judgment Debtor remained ex-parte, upon perusing the material papers on record, and having stood over for consideration till this day, this Court delivered the following:

ORDER

1. This Execution Petition is filed Under Order 21 Rule 37 and 38 of C.P.C for detention of the judgment debtor in civil prison, since the Judgment Debtor, though having sufficient means, is neglecting to pay the decretal amount.

2. The brief averments of the affidavit of Decree Holder, filed in support of the present Execution Petition, are as follows: The decree holder obtained money decree against the judgment debtor in

O.S.No.33/2018 on 07.08.2018. After passing the decree the Decree holder approached the Judgment Debtor in person and orally demanded him to satisfy the decree passed against him but, he went on postponing the same on some pretext or the other. Further, the Judgment Debtor owns and possess dry and wet lands to the extent of Ac.10-00 cents and he has been raising commercially crops periodically and getting an annual income of Rs.1,00,000/- and he has also own house in the village which worth Rs.1,00,000/- and the Judgment debtor is in affluent possession to discharge the execution petition debt. The Judgment debtor doing seasonal business i.e., groundnut paddy and tomato etc., and getting an income of Rs.50,000/- p.a. the Judgment debtor is having two milk chilling cows and getting an income of Rs.10,000/- p.m. Inspite of having the sufficient means the Judgment debtor is evading to discharge the decretal amount. Hence, the petition.

3. No representation on behalf of the Judgment Debtor Service of summons held sufficient. Hence, the judgment debtor set ex-parte.

4. To prove his case, the Decree Holder himself was examined as PW.1 and no documents were marked. On the other hand, the Judgment Debtor having remained ex-parte.

5. Heard the learned counsel for the Decree Holder.

6. Now the point for consideration is:-Whether the Judgment debtor is having sufficient means and if so, he is neglecting to discharge the decretal debt?

7. **Point:-**The initial burden to prove this point is on the Decree Holder. The Decree Holder has to prove that the Judgment Debtor is

having or had means to pay the decreetal amount or some substantial part of it since the date of decree, and either he had refused or neglected to pay it.

8. The Decree Holder himself was examined as PW.1. In the chief affidavit filed in lieu of his chief examination, that the Judgment Debtor owns and possess dry and wet lands to the extent of Ac.10-00 cents and he has been raising commercially crops periodically and getting an annual income of Rs.1,00,000/- and he has also own house in the village which worth Rs.1,00,000/- and the Judgment debtor is in affluent possession to discharge the execution petition debt. The Judgment debtor doing seasonal business i.e., groundnut paddy and tomato etc., and getting an income of Rs.50,000/- p.a. the Judgment debtor is having two milk chilling cows and getting an income of Rs.10,000/- p.m. Inspite of having the sufficient means the Judgment debtor is evading to discharge the decreetal amount and that the Judgment Debtor is having ample means to discharge the Execution petition amount but, the Judgment Debtor did not discharge the Execution petition amount.

9. The learned counsel for the Decree Holder argued that the Decree Holder, by examining him could discharge his initial burden of showing that the Judgment Debtor has sufficient means to pay the Execution Petition amount. As seen from the material papers available on record the Judgment Debtor is having sufficient means to pay the decreetal debt but, he did not pay any amount towards the decreetal debt, till today. This supports the case of the Decree Holder that the Judgment Debtor is intentionally evading the payment the decreetal

debt or a substantial portion of it. Hence, I find grounds to allow the petition.

10. For the aforesaid reasons, this Court is of the considered view that the Decree Holder has proved his case that the Judgment Debtor is having sufficient means to discharge the Execution Petition amount and that he had intentionally neglected to pay the same. Accordingly, the Decree Holder is entitled to the relief claimed by him. This point is answered in favour of Decree Holder and against the Judgment Debtor.

11. In the result, this Execution Petition is allowed with costs. Issue arrest warrant on Judgment Debtor, on payment of necessary process by Decree Holder. Call on 07.06.2019.

Typed to my dictation by the Personal Assistant and pronounced by me in the open court, on this the 25th day of April, 2019.

Junior Civil Judge,
Thamballapalle.

APPENDIX OF EVIDENCE
Witnesses examined for

Decree Holder:

PW.1- M.Lakshmiddevamma.

Exhibits marked for Decree Holder:-Nil

Exhibits marked for Judgment Debtor:- Nil.

Judgment Debtor:

-None-

Junior Civil Judge,
Thamballapalle.