

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.1006 of 2017

ORDER.

Decree Holder in FCOP.No.70 of 2011 on the file of learned Judge, Family Court, Kurnool is the revision petitioner.

The executing Court by recording the following findings.

“As regards the prayer of the petitioner for realization of the decretal amount by arrest of the respondent admitted the petitioner is a pensioner and he is now an old man of 64 years. Further, though pension itself is not attachable, once it is transformed into a deposit, it can be attached. The petitioner, if so advised can seek for that mode of execution for realization of the decretal amount. But except the affidavit filed by the petitioner, there is no other evidence be it in the form of oral or documentary to show at least prima facie that the respondent has landed property at Giddalur and house property at Yemmiganur and he is also doing business. Further, the record shows that the earlier Execution Petition No.5/2013, 3/2014, 6/2014 and 1/2015 all were closed on filing of F.S. Memo filed by the petitioner and it appears soon after receipt of Rule-37 notice the respondent paid the amount due and the petitioner filed memo to that effect. It clinchingly shows that there is no intentional disobedience on the part of the respondent which is necessary to order arrest of the respondent which in the result takes away the personal liberty to some extent. I, therefore, opine that the petitioner has failed to prove that the respondent intentionally disobeyed the orders of the Court and the petitioner has an efficacious remedy of seeking execution of

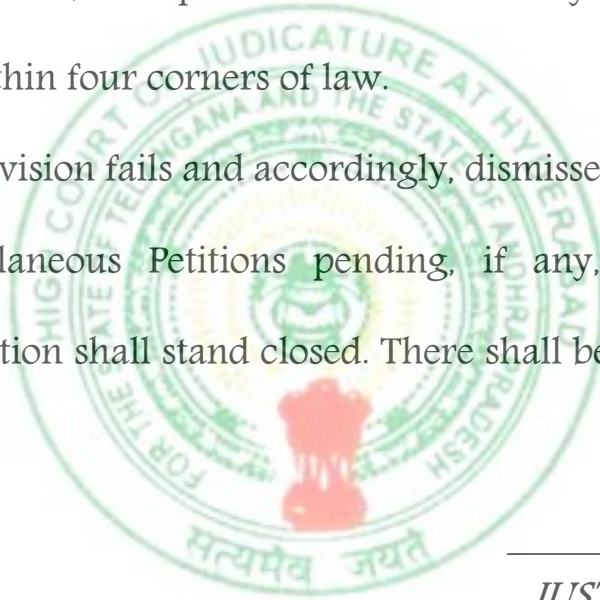
the decree for realization of the amount due by attachment of the monies of the respondent though not his pension. The point is accordingly answered”

dismissed E.P.No.1 of 2016.

I have perused the material available on record and this Court is in agreement with the findings recorded by the executing Court. It is needless to observe that for realization of the amount payable in FCOP.No.70 of 2011, as observed by the executing Court, the petitioner can certainly work out the remedies within four corners of law.

The Revision fails and accordingly, dismissed.

Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed. There shall be no order as to costs.



*JUSTICE S.V.BHATT*

*28<sup>th</sup> February, 2017*

*DR*