HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

****

CIVIL REVISION PETITION No.3305 OF 2016

Between:

P. Obulesu, S/o. P. Nagulappa,
R/o. Kummarivaripalli, P.T.M. Post & Mandal,
Chittoor District. …. Petitioner

Versus

B. Nandi Reddy, S/o. Chinnappa Reddy,
R/o. Settipalli, B. Kothakota Mandal,
Chittoor District. …. Respondent.

DATE OF ORDER PRONOUNCED : 14.10.2026

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

1. Whether Reporters of Local Newspapers may be allowed to see the order? Yes/No

2. Whether the copy of order may be marked to Law Reporters/Journals? Yes/No

2. Whether His Lordship wishes to see The fair copy of the order? Yes/No

_____

PURUSHOTTAM KUMAR CHINTALAPUDI, J

*** HON'BLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI**

+ C.R.P. No.3305 OF 2016

% 14.10.2026

 # Between:

P. Obulesu, S/o. P. Nagulappa,
R/o. Kummarivaripalli, P.T.M. Post & Mandal,
Chittoor District. …. Petitioner

Versus

B. Nandi Reddy, S/o. Chinnappa Reddy,
R/o. Settipalli, B. Kothakota Mandal,
Chittoor District. …. Respondent.

! Counsel for the Petitioner : Mahadeva Kanthrigala

^ Counsel for the Respondent : T.V. Jaggi Reddy

> Head Note:

? Cases referred:

1. 2009 (3) ALT 465
2. 2022 Supreme (AP) 1131

This Court made the following:

Date of reserved for orders: 24.07.2026
Date of pronouncement :14.10.2026
Date of uploading :14.10.2026

Neutral Citation: _____

APHC010053992016

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI **[3606]**

WEDNESDAY, THE 14TH DAY OF OCTOBER 2026

PRESENT

THE HON'BLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

CIVIL REVISION PETITION No.3305 OF 2016

Between:

1. P. Obulesu, S/o. P. Nagulappa, R/o. Kummarivaripalli, P.T.M. Post & Mandal, Chittoor District.

...Petitioner

AND

1. B. Nandi Reddy, S/o. Chinnappa Reddy, R/o. Settipalli, B. Kothakota Mandal, Chittoor District.

...Respondent

Petition under Section 115 of the CPC, is filed by the petitioner aggrieved by the order and decree, dated 25.04.2016, passed in O.E.P No.75 of 2014 in O.S. No.12 of 2011 by the Hon'ble I Additional Junior Civil Judge, Madanapalle, Chittoor District.

IA No.1 OF 2016 (CRPMP 4231 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to expedite the hearing of the Civil Revision Petition.

Counsel for the Petitioner : **MAHADEVA KANTHRIGALA**

Counsel for the Respondent : **T V JAGGI REDDY**

The Court made the following

ORDER:

The Petitioner/Decree Holder has preferred this Revision, under Section 115 of the Code of Civil Procedure, 1908 (In short, referred as the 'Code'), challenging the impugned order of dismissal of Execution Petition No.75 of 2014, filed to detain the JDR in civil prison for realization of decretal amount, dated 25.04.2016, on the file of I Additional Civil Judge (Junior Division), Madanpalle, Chittoor District.

2. Heard Sri Mahadeva Kanthrigala, learned counsel for the petitioner, and Sri T.V. Jaggi Reddy, learned counsel for the respondent.

Factual matrix:

3. The petitioner is the plaintiff, filed the suit O.S. No.12 of 2011 for recovery of amount. The suit was decreed against the respondent/defendant. The respondent did not pay the decretal amount. Then, petitioner moved execution of the decree against the respondent under the provisions of Order XXI Rules 37 and 38 of the Code, seeking the relief to detain the respondent in civil prison for realization of the decretal amount.

4. For better appreciation, since the Revision is against the Execution Proceedings, the petitioner/plaintiff with decree is referred as Decree Holder (in short, 'DHR') and the respondent/defendant as Judgment Debtor (in short, 'JDR').

Case of DHR:

5. The DHR asserts in his affidavit in Execution Petition that the JDR, even after passing the decree, did not pay the decretal amount. JDR has sufficient means but willfully avoiding to pay the decretal amount. The JDR is doing seasonal business and cultivation, earning ₹3,00,000/- per annum. He got a house property which is worth of ₹2,00,000/-, got Ac.10.00 cents of wet and dry lands and also having a tractor getting ₹10,000/- per month. Thus, having sufficient resources to repay the decretal amount, the JDR has avoided to pay the amount.

Case of JDR:

6. The JDR denied the said allegations that he is having sufficient means willfully neglected to pay the decretal amount. His stand is, he does not have any movable and immovable properties. He is a senior citizen. He is suffering with age ailments. He is dependent on his sons and he has no individual income. He preferred an Appeal against the impugned decree, filed A.S. No.16 of 2015 on the file of II Additional District Court, Madanapalle. Having knowledge of the Appeal, the DHR has preferred the execution proceedings before the trial Court.

Proceedings before the trial Court:

7. The proceedings do show, the DHR and JDR have let in evidence. The DHR examined himself as P.W.1 and examined the Village Revenue Officer (VRO) as P.W.2. Through P.W.2, Ex.X-1 -

1-B namuna was marked. The JDR has examined himself as R.W.1. He has not exhibited any documents.

8. On hearing both sides, the learned Judge has passed the impugned order of dismissing the E.P. with an observation that under the evidence, the DHR exhibited Ex.X-1, 1-B extract through P.W.2 at Katha No.2254, the JDR is having different extent of lands, but 1-B namuna does not bear the signatures of Tahsildar, on each page and there is discrepancy of the name of the father of the JDR in Ex.X-1. The learned Judge opined that the DHR has not filed any document to show that the JDR has landed property. With Ex.X-1, cannot be said that who is in possession of the land and thus it cannot be said that the JDR is deriving income from the said landed property.

9. The learned Judge further opined that the Appeal A.S. No.16 of 2015 is pending on the file of II Additional District Court, Madanapalle. Therefore, he denied to accept the execution proceedings and, in the result, dismissed the said execution proceedings.

10. Dissatisfied by the said dismissal of execution proceedings, the DHR has approached this Court under the provisions of Section 115 of the Code, raising the grounds that the learned Judge erroneously dismissed his Execution Petition on the ground that the name of father of the JDR is not tallying, without appreciating the evidence, and that the burden is on the JDR, instead burden shifted to the DHR. The learned Judge failed to consider that the JDR has

sufficient means but did not discharge the decretal amount. Hence, sought to allow the Revision.

Arguments:

11. Sri Mahadeva Kanthrigala, learned counsel for DHR, argued on the lines that the learned Judge failed to appreciate the evidence of the DHR in proper perspective. The VRO was examined, 1-B namuna document as Ex.X-1 exhibited, which is self-sufficient document to show that the JDR has sufficient lands and he is not an agricultural coolie, but erroneously dismissed the said Execution Petition and sought to allow his Revision. Learned counsel for DHR, in support of his contention, relied on a ruling of this Court in ***Konda Subbaiah v. Yedoti Kamalakshaiah***[1].

12. Sri T.V. Jaggi Reddy, learned counsel for JDR, submitted that there are no irregularities in the findings of the trial Court. The means of the JDR are not proved. The Ex.X-1 is not admissible document to consider the willful default of the JDR. Learned counsel for the JDR, in support of his submission, relied on a latest ruling of this Court in ***Gouru Giridhara Rao v. Mangi Gangayya***[2].

13. Learned counsels have submitted that the Appeal A.S. No.16 of 2015 on the file of II Additional District Court, Madhanapalle, was dismissed on 27.10.2016. There is no reference from the learned counsels that any further challenge is placed against the said dismissal of the Appeal.

---

[1] 2009 (3) ALT 465
[2] 2022 Supreme (AP) 1131

14. I have heard both learned counsels and have gone through the record.

Discussion:

15. The present Revision is assailed against the dismissal of the Execution Petition. I have gone through the impugned order, which is under challenge before this Court. The relevant extract of the impugned order is as follows:

> "**07.** …….
> ……
> The evidence of P.W.1 shows that he has not filed any document to show that the J.dr is having landed property and J.dr is doing business and getting income. The evidence of PW.2 in his chief examination shows that the J.dr is having landed property in different extents in different survey numbers. The cross examination of P.W.2 shows that the father's name of J.dr is mentioned as Chinnappa in Ex.X-1 and further Ex.X-1 does not show who is in possession of landed property and further the cross examination of P.W.2 shows that the year 2014 is declared as drought and compensation was paid by the Government to the farmers.
>
> Hence, the evidence of P.W.2 shows that the J.dr is having landed properties in different survey numbers. Ex.X-1 i.e. Attested Copy of 1-B Extract shows that B. Nandi Redy, S/o. Chinnapa is having landed property in different survey numbers. The father's name of J.dr was mentioned in Execution Petition as Chinnappa Reddy. Hence, the father's name of J.dr, which is mentioned in the Execution Petition, is not tallied with the father's name mentioned in Ex.X-1. Moreover, on perusal of Ex.X-1, it is observed that it does not contain who is in possession of said landed properties. Hence, basing on Ex.X-1, it cannot be said that who is in possession of said landed properties, which are alleged to be owned by J.dr. When the possession is not shown, it cannot be said that who is deriving income from said landed properties. Since, Ex.X-1 does not contain who is in possession of said landed properties, it cannot be said that the J.dr. is deriving income from said landed properties.

> Moreover, it is an admitted fact that the J.dr. preferred an appeal against the decree in A.S. No.16/2015 on the file of Hon'ble II Addl. District Judge's Court, Mandapalalle and the same is pending.
> ……..."

16. The impugned order shows that, the DHR has placed relevant evidence, examining himself as PW1 and also examining VRO as PW2. The DHR, exhibited Ex- X 1, through PW2, to show that, the JDR has landed properties. The learned Judge has referred the evidence of both parties. He mainly relied on the evidence of VRO, the PW-2. Learned Judge extracted the details of lands under various survey numbers, evidenced from PW 2 as follows:

> Ex.X-1 – 1-B namuna, would show that in Sy.No.38, the JDR is having Ac.0.50 cents; Ac.1.15 cents in Sy.No.40, Ac.0.45 cents in Sy.No.42, Ac.0.25 cents in Sy.No.147, Ac.0.20 cents in Sy.No.152, Ac.2.85 cents in Sy.No.153/2, Ac.0.14 cents in Sy.No.27 and Ac.0.02 cents in Sy.No.28.

17. This would show that, there are lands for JDR at different survey numbers. The learned Judge in fact, in his impugned order has noted that, the JDR has landed properties. On one context, learned Judge appreciates on PW.2 evidence that the JDR has landed property in different survey numbers, but denied to accept the Ex.X-1, on the grounds that, the name of the father of the JDR do not tally, signatures of VRO are not there on each paper of Ex. X-1 and that, it does not show the possession of the JDR.

18. Having found that, the DHR has placed relevant material documents and examined witnesses in support of his affidavit, that, the JDR has properties and he is not an agricultural coolie, the learned Judge relied on denial of JDR, though the JDR has not placed evidence, disputing the evidence of VRO. JDR did not deny that, he has received the compensation during drought season from the Government as a farmer. Under the provisions of Section 51 of the Code, Order XXI Rules 37, 38 and 40 of the Code, one has to see, the sufficient means of JDR as on the date of decree and willful neglect to pay the decretal amount, but not the title or possession. The DHR has an obligation to *prima facie* establish that, JDR has means to honor the decree, but he is not doing it.

19. It is relevant to refer provisions of the Code, relevant to these proceedings. Section 51 of Code prescribes modes of execution of decree. Section 51 of the Code reads as follows:

> **"51. Powers of Court to enforce execution - Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree -**
>
> (a) by delivery of any property specifically decreed;
>
> (b) by attachment and sale or by sale without attachment of any property;
>
> (c) by arrest and detention in prison [for such period not exceeding the period specified in section 58, where arrest and detention is permissible under that section;]
>
> (d) by appointing a receiver; or
>
> (e) in such other manner as the nature of the relief granted may require : [Provided that, where the decree is for the

payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied -

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,-

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property, or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation - In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.] [Inserted by Act 21 of 1936, Section 2.]"

20. One of the modes of execution of the decree is by way of arrest and detention. The provision has specifically laid down the principles to invoke the civil detention, specifically proviso to Section

51(a) and (b). The provision can be invoked if the Court finds that, the JDR has objectives in evading the decree, such as to cause delay in execution and to obstruct the execution, likely to abscond or transfers the property. Apart from this, proviso (b) says, the JDR since the date of decree, has the means to pay the decretal amount, but neglects or refuses to pay the amount, then also can be invoked.

21. The Courts have to see, the intention of the JDR, with which object he is refusing to pay the decretal amount. In that process, the Courts cannot go into rowing enquiry as to the extent of the properties, titles, shares, or possession. *Prima facie*, the Courts have to see, that, the DHR has laid foundation as to the means of the JDR, and that, the JDR with objective to delay the execution, though has means did not pay the amount. To prove the intention of the JDR, the DHR burden lies to the extent to show *prima facie* material only. But not detailed evidence of means.

22. In a suit for recovery of amount, once it is decreed, it is established that, the opposite party had liability to repay the amount. When an amount is borrowed, it cannot be said, that, the opposite party with an intention to defraud the DHR he borrowed, but it is to be understood that, the borrower, with intention to repay only borrowed. Had without intention, he borrows, and upon decree against him, later takes plea of no sufficient means, it falls under the scope of obstructing the decree of DHR on the relevant circumstances and facts of each case. The decree for recovery of amount, remains executable, unless it is altered or set aside by

appellate forum. The JDR without challenging the decree of liability, cannot claim that, he has no means. If it is so, proviso of Section 51 comes into action to execute the decree in different modes. In the case of civil detention, the intention is the factor and for that the conduct of the JDR is relevant, since the date of decree.

23. The principle is laid down by the co-ordinate bench of this Court in ***Konda Subbaiah*** (1st *supra*) (relied by the DHR). This Court has observed that the Executing Court has to consider that once a decree is passed, the corresponding obligation would be placed on the JDR to discharge the decree. When there is no response from the JDR, the DHR has to go for execution of the decree by way of various modes prescribed under the provisions of the Code. If adequate means are there to the JDR and did not comply the decree, then mode of arrest is executable. It is not the burden of the DHR that he should prove the properties and resources possessed by the JDR. The duty of the DHR ends only when he places some material before the Executing Court, which indicates the JDR has possessed the property and means.

24. In the present case, it is clear that Ex.X-1 shows that landed properties to the JDR. The landed properties income viability is a different aspect. The trial Court, in different stages observes that the JDR has the landed properties; but taken away with variation of name of the father of the JDR. The JDR has not placed the documents as to the proper name of his father. Not the denial alone suffice. JDR has a burden to discharge that the lands does not

belong to him, especially when he denied to the statement of official witness PW.2 that as a farmer he received compensation.

25. The evidence and finding of learned Judge, *prima facie* establish that, the JDR has some landed properties. Possession or title decision is not relevant. Having the means is the relevancy. That relevancy, if found, the willful neglect to pay the decree arises under the proviso to Section 51(c) of the Code.

26. In the case of ***Gouru Giridhara Rao*** (2nd *supra*) (relied by the JDR), is not on contest. In the said case, the opposite party did not appear. This Court has proceeded applying the provision of Section 51(b) of the Code with an observation that unless JDR had since the date of decree means to pay the amount or substantial part thereof and intentionally refuses to pay the amount, there must be some element of bad faith. Beyond mere indifference to pay, there should be some deliberate requisite dispossession in the past or alternatively. This Court in the above ruling observed that P.W.1 *i.e.,* the DHR deposed that the JDR is having movable and immovable properties in his native village, but he did not state the details. In those circumstances, this Court observed that, in the absence of no document, to show that the Respondent/JDR is having movable and immovable properties, getting income and means to pay decretal amount, ordering his arrest is not correct. Simple default is not a criteria to consider.

27. In the present case, the facts are distinguishable to the above case. The DHR has filed Ex.X-1, the documents showing that the JDR is having the lands in Survey Nos.38, 40, 42, 147, 152, 153/2,

27 and 28. He *prima facie* established the existence of lands by examining P.W.2. Then, laying heavy burden over the DHR is not proper. The burden shifts to the JDR to establish his case. He simply cannot deny the discrepancies in the said documents. The DHR has established his case by producing the document Ex.X-1 as well as examining himself as P.W.2. Then the JDR has a responsibility to establish his case that he has no willful default, having sufficient means, but not on the case of DHR.

28. Thus, the ruling relied by the JDR in fact supports the DHR, and the principle that, the intention of the JDR has to be seen, but not the real ownership of the properties.

29. The learned Judge has relied on the possession of the properties under Ex.X-1. The Ex.X-1 is produced from the authorized witness - the VRO, showing the extent of land in different survey numbers to the JDR. With regard to the possession or variation of name of the father is material evidence that is for the JDR to place. Relevancy of means is not to be understood that the income is to be in tune with the decree. It is only to ascertain the financial position coupled with intention. Having the properties, the JDR transfers the same to delay the decree, may also attract the provision. It is to the financial status of the JDR. Once the decree is passed, the plaintiff under execution is not supposed to conduct a trial to prove the financial capacity. His burden is to the extent of intention of the JDR only.

30. The principle is that, the JDR, having sufficient means and willfully defaults in payment the decree amount or honoring the

decree, if such attempt is found, then the Court can proceed with execution under civil arrest. Order XXI Rules 37, 38 and 40 of the Code provides the scope that once Section 51(b) is applicable, then the DHR can proceed under Rules 37 and 38 of Order XXI of the Code, after giving opportunity to the JDR to establish his case that the execution cannot be invoked against him that he has not willfully denied the decree.

31. It is evident from the evidence of P.W.2 - the VRO and the statement of the DHR that the JDR has certain extent of land and during the drought season, Government has paid compensation to the farmers and JDR received it as a farmer. The trial Court ought to have balanced this approach rather than shifting burden to DHR. The Court has to consider JDRs explanation and other circumstances and material on record with DHR evidence. The Court has to examine as a whole, from the evidence of JDR also. Sections 51(b), 54 and 55 and of the Code do not prescribe the declaration or finding of the title. Its intention of the Respondent/JDR to dishonour the decree, once the decree is against him, he has to comply the decree. If willful neglect having sufficient means is found and then the Respondent/JDR is liable under the said provisions.

32. Under Rules 37 and 38 of Order XXI of the Code, the resistance to the decree is on the grounds that JDR has no sufficient means, the decree is reversed and there are any irregularities in the decree.

33. In the present case, the decree is challenged before the appellate Court as A.S. No.16 of 2015, and the Appeal was dismissed. Thus, there is no reversal of the decree, the decree of the trial Court, upheld fixing the liability of the JDR. It is not the case of the JDR that, there are any irregularities in the decree. As to the sufficient means, the burden on DHR is to the extent of *prima facie* material and he placed the evidence. Burden shifted to the JDR to establish he has no bad faith to dishonor the decree and no sufficient means. In this case, much stress on DHR is given rather than JDR.

34. Considering that the Appeal is pending, therefore, he is not entitled to go further, is not proper. Order XLI Rule 5(1) of the Code says pending an Appeal is not an automatic stay of the decree of the trial Court. As long as the decree is not reversed or stayed by the appellate Court, the proceedings can go on. Subsequent to the dismissal of the Execution Petition, the Appeal was also dismissed.

35. With the above discussion, the present case reflects the following aspects: the evidence of P.W.2 and Ex.X-1 were relevant to the inquiry into the JDR's financial circumstances. The statement concerning the payment of drought compensation to farmers was also a circumstance to be assessed, but it could not, without further consideration, conclusively establish the JDR's ability to pay the decretal amount. The Executing Court must consider the evidence as a whole and determine whether the conditions prescribed by Section 51 of the Code are satisfied.

36. The pendency of A.S. No. 16 of 2015 did not, by itself, operate as a stay of the decree. Order XLI Rule 5(1) of the Code provides that an appeal does not automatically stay the execution of the decree. In the absence of an order of stay, the Executing Court could not dismiss the Execution Petition merely because the appeal was pending. The appeal was subsequently dismissed on 27.10.2016, as stated by learned counsel. That subsequent event may be noticed, subject to verification of the present status of the appellate judgment, but it does not dispense with the separate inquiry required for detention in civil prison.

37. The Executing Court's approach to Ex.X-1 and its reliance on the pendency of the appeal therefore require reconsideration. The Court ought to have assessed the revenue extract and the testimony of P.W.2 together with the JDR's evidence and then applied the requirements of Section 51 and Order XXI Rules 37, 38 and 40 of the Code. The question of detention must be decided only after giving the JDR the opportunity contemplated by law and determining whether the relevant statutory conditions are established.

38. The approach to decide the execution of civil arrest, should be a balanced one. DHR having decree again cannot be expected to conduct enquiry as to proving of means for fruits of the decree. It is a prima-facie material. The burden then lies with JDR sufficient means since the date of decree. Any transaction done prior to execution of decree also comes to balance both sides, but not alone on one side.

39. The ruling relied in ***Konda Subbaiah*** (1st *supra*) case is applicable to the present facts, wherein this Court, while analyzing the facts and legal position has restored the E.P. and ordered for fresh hearing. The ruling relied by the respondent in ***Gouru Giridhara Rao*** (2nd *supra*) is not applicable to JDR, but supports the DHR.

40. On the above facts, circumstances, evidence, and the legal position, I find that, Section 115 of the Code would attract, that, the impugned order requires for consideration for interference. In view of the above, the impugned order cannot be sustained and liable to set it aside and restore the Execution Petition to the Executing Court for fresh consideration in accordance with law.

41. The observations made in this order are confined to the grounds on which the Execution Petition was dismissed, but not otherwise. The trial Court has to proceed on its own, without influencing of any of the findings in the Revision.

Result:

42. In the result, the Civil Revision Petition is allowed, setting aside the impugned order, dated 25.04.2016, passed in E.P. No.75 of 2014 in O.S. No.12 of 2011 by the learned I Additional Civil Judge (Junior Division), Madanapalle, Chitoor District and restoring the same, the Executing Court is directed to hear and dispose the Execution Petition No.75 of 2014, afresh, after giving opportunity to both sides, following the principles of law. No order of costs.

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

_____

JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

Date:14.10.2026
DSH

Whether the order is:

Speaking		Reasoned	√
Reportable	√	Non-Reportable	