

**HIGH COURT OF ANDHRA PRADESH**

**MAIN CASE No: C.R.P.No.411 of 2023**

**PROCEEDING SHEET**

<b>Sl. No.</b>	<b>DATE</b>	<b>ORDER</b>	<b>OFFICE NOTE.</b>
01.	23.02.2023	<p><b><u>RC,J</u></b></p> <p><b><u>I.A.No.01/2023</u></b></p> <p>Dispensed with for the present.</p> <p style="text-align: right;">_____ <b>RC, J</b></p> <p><b><u>C.R.P.No.411/2023</u></b></p> <p>Notice before admission.</p> <p>Learned counsel for petitioner is permitted to take out personal notice on the respondents by registered post with acknowledgment due and file proof of service in the Registry.</p> <p>Post on 09.03.2023.</p> <p style="text-align: right;">_____ <b>RC, J</b></p> <p><b><u>I.A.No.02/2023</u></b></p> <p>Heard the learned counsel for the petitioner.</p> <p>Learned counsel for petitioner submitted that without following the procedure contemplated under Order 21 Rules 37&amp;38, the Court below has straight away ordered the arrest of the J.Dr/petitioner.</p> <p style="text-align: right;">(Contd..,)</p>	

Learned counsel for petitioner, in support of his contentions relying on the judgement in ***M.V.Panduranga Vs A.Sattar Khan, 1999(5)ALT 471*** the relevant portion reads as follows:

*"4. While passing the order under Order 21 Rules 37 and 38 C.P.C., the Court is expected to hold enquiry as to whether the judgement-debtor having sufficient means is willfully avoiding to pay the decretal amount. On this issue if the finding given by the learned Judge is in the affirmative, then only the learned Judge has to pass an order under Order 21 Rules 37 and 38 C.P.C and not before that. Admittedly in the present case, no such enquiry was made. Therefore, this Court allows the revision, setting aside the order passed in E.A.No.49/99 and directs the learned Judge to hold an enquiry as contemplated under Order 21 Rules 37 and 38 C.P.C. within a period of two months from the date of receipt of this order."*

Perused the orders impugned in this revision petition. The submissions made by the learned counsel for petitioner and the grounds raised in this revision petition *prima facie* makes out a point for consideration to be decided in this revision petition. In the meantime, if suit is proceeded further and decided, the rights of the revision petitioner would be defeated, as such this Court is inclined to grant the following interim direction:

(Contd..,)

There shall be interim stay of all further proceedings in E.P.No.69/2021 in O.S.No.107/2018 on the file of the Court of the learned Principal Senior Civil Judge, Gajuwaka for a period of four(04) weeks.

*BRS*

**RC, J**