

HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

MAIN CASE No. C.R.P.No.732 of 2026

PROCEEDING SHEET

SL. NO.	DATE	ORDER	OFFICE NOTE
3.	01.05.2026	<u>RNT, J</u> Heard Sri Saranu Phani Teja, learned counsel for the petitioner. 2. The petitioner is the judgment debtor. The respondent is the plaintiff-decree holder. O.S.No.51 of 2016 filed by the plaintiff-respondent was decreed vide judgment and decree dated 21.08.2017 in the following terms: “In the result, suit is decreed with costs for an amount of Rs.4,74,320/- in favour of plaintiff against defendant and subsequent interest is granted at 12% p.a. from the date of filing suit until decree and thereafter at 6% p.a. from the date of decree until realisation on principal amount Rs.3,08,000/-.” 3. The judgment debtor did not comply with the decree. So, the plaintiff filed EP.No.2 of 2019 for execution of decree. In the said EP learned execution Court has passed the order issuing the warrant of arrest against the petitioner under Order 21 Rule 37, 38 and Section 55 CPC on 28.10.2025 and challenging	

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		the same the present CRP has been filed. 4. Learned counsel for the petitioner submits that in the suit an order of attachment before judgment was passed in I.A.No.329 of 2016 on 08.06.2016 vide page Nos.35 & 36 in the present CRP. He submits that the EP amount is Rs.5,68,205/-. The valuation of the property under attachment is shown as Rs.21 lakhs. He submits that the learned Execution Court, instead of proceeding against the attached property, for realisation of the EP amount, has passed the impugned order of petitioner's arrest, and inspite of the said fact being brought to the notice of learned Execution Court it observed that "an attachment before judgment does not bar an E.P. for arrest". 5. Learned counsel for the petitioner submits that to ensure the realisation of the decretal amount the property attached before the judgment could be proceeded and it was not required to pass the order for arrest.	

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		6. Learned counsel for the respondent prays for time to file counter/objections. 7. Let the counter be filed within a period of six (06) weeks. 8. Two weeks thereafter is granted to the reply affidavit. 9. List on 03.07.2026. 10. Considering the submissions advanced and going through the judgment under challenge, prima-facie, the case of grant of stay is made out. No doubt all the modes prescribed for execution are available and it is not necessary to follow one after the other but in 'arrest' the liberty of the judgment debtor', which is his fundamental right under Article 21 of the Constitution of India ordinarily is involved which should not be resorted to if other mode of realisation of the E.P. amount can effectively be resorted. Arrest should be the last resort. 11. Operation of the impugned order shall remain stayed.	

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		12. However, it shall be open for the Decree holder and the learned Execution Court to proceed in accordance with law with respect to the property under attachment. RNT,J AG	