

[3299]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE FIRST DAY OF MAY,
TWO THOUSAND AND TWENTY SIX

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
CIVIL REVISION PETITION NO: 732 OF 2026



Between:

Adigarla Ramana, S/o. Konda, aged 46 years, Cultivation, R/o. Mamidipalem Village, H/o. Tutipala Village Makavarapalem Mandal, Visakhapatnam District, Pin - 531113.

Petitioner/Respondent/J.Dr

AND

Katchalla Raju, S/o. Rajubabu, aged 48 years. Cultivation, R/o. Pothaluru Village, H/o. Tutipala Village, Makavarapalem Mandal, Visakhapatnam District, Pin - 531113.

Respondent/Petitioner/D.Hr

Petition Under Section 115 of C.P.C, is filed praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to present this Memorandum of Civil Revision Petition against the Order dated 28.10.2025, passed in E.P. No. 2 of 2019 in O.S. No. 51 of 2016 on the file of The Civil Judge (Senior Division), Narsipatnam.

IA NO: 1 OF 2026

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings including the arrest of the petitioner herein in pursuance of the order dated 28.10.2025 passed in E.P. No. 2 of 2019 in O.S. No. 51 of 2016, on the file of The Civil Judge (Senior Division), Narsipatnam, Pending disposal of CRP 732 of 2026, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the earlier order of the High Court dated:

06.03.2026 made herein and upon hearing the arguments of Sri SARANU PHANI TEJA, Advocate for the Petitioner and of Sri. K.V. SATYA RAMA CHANDRA RAO, Advocate for the Respondent and the Court made the following;

ORDER:

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 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.

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.

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.

SD/- M.SRINIVAS
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Civil Judge (Senior Division), Narsipatnam.
2. Katchalla Raju, S/o. Rajubabu, aged 48 years. Cultivation, R/o. Pothaluru Village, H/o. Tutipala Village, Makavarapalem Mandal, Visakhapatnam District, Pin - 531113. (by RPAD)
3. One CC to Sri. SARANU PHANI TEJA, Advocate [OPUC]
4. One CC to Sri. K.V. SATYA RAMA CHANDRA RAO, Advocate [OPUC]
5. One spare copy

JSS

HIGH COURT

RNT, J

DATED:01.05.2026.

LIST ON 03.07.2026.

ORDER

CRP.No.732 of 2026



DIRECTION