

APHC010154452024



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3527]

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL NO: 228/2024

Between:

Kandimalla Tulasi Devi

...APPELLANT

AND

Ponakala Balarama Sundari and Others

...RESPONDENT(S)

Counsel for the Appellant:

1. SIVA RAMA KRISHNA KOLLURU

Counsel for the Respondent(S):

1. M CHALAPATI RAO

The Court made the following:

Judgment: *(Per Hon'ble Sri Justice B. Krishna Mohan)*

Heard the learned counsel for the appellant and the learned counsel for the Respondent Nos.1 to 3.

2. This Civil Miscellaneous Appeal was filed against the order dated 14.02.2024 passed in I.A.No.1296 of 2023 in O.S.No.157 of 2023 on the file of

III Additional District Judge, Guntur wherein, the item Nos.1 to 6 of the plaint schedule properties are effected with attachment and in respect of item No.7 of the plaint schedule property, it was dismissed.

3. Aggrieved by the said order of attachment in respect of item No.1 of the plaint schedule property, the 2nd defendant therein filed this appeal and he contends that even according to the plaint averments, the plaintiff did not pay the amount of Rs.34,50,000/- to the 2nd defendant directly on 10.06.2022. Even according to the proposed amendment and impleadment application in I.A.No.515 of 2024, the plaintiffs themselves averred that an amount of Rs.34,50,000/- was paid by the 2nd plaintiff to the account of M/s.Adi Sankara Cotton and Yarn Exporters represented by its partner Kandimalla Tulasi Devi / 2nd defendant through the 6th defendant / Kandimalla Sai Krishna.

4. Whereas, even according to the contention of the learned counsel appearing for the Respondent Nos.1 to 3 / plaintiffs, the suit was filed for recovery of sum of Rs.3,98,76,000/- with subsequent interest at the rate of 18% per annum from the date of suit till realization.

5. It is the case of the plaintiffs that a total amount of Rs.2,42,50,000/- towards sale consideration was paid to the defendants and if interest is added at the rate of 18% per annum from the date of agreement of sale dated 25.06.2022 to 15.10.2022, another sum of Rs.56,26,000/- is to be added to the principal amount. Accordingly, a total amount of Rs.2,98,76,000/- is due as on the date of institution of the suit. Hence the above said suit was filed for

recovery of money as the defendants sold away the plaint schedule properties against which the above said sale consideration was paid and the agreement of sale was executed. In view of such peculiar facts and circumstances, the plaintiffs were constrained to file the above said suit for recovery of money against the defendants, claiming joint and several liability.

6. Now that the 2nd defendant alone cannot take one single averment out of the total plaint and say that she is not liable for any such kind of furnishing security or property and no attachment cannot be sought. Since the suit is at the pre-trial stage, it cannot be gone into to fix the individual liabilities at this stage. The Trial Court dealt with the matter on contest and passed the above said order dated 14.02.2024 in I.A.No.1296 of 2023 in O.S.No.157 of 2023.

7. Now that the 2nd defendant pleads that the item No.1 of the B- schedule property which was attached is only the property left over to the appellant / 2nd defendant and in the alternative, she comes forward to furnish the surety pending the suit.

8. Upon hearing both the learned counsels with respect to the furnishing of security, this Court directs the appellant / 2nd defendant to furnish surety for a sum of Rs.1,00,00,000/- in lieu of attachment of item No.1 of the plaint B- schedule property. The above said security shall be furnished on or before 30.06.2025. Accordingly, the order under challenge in this appeal is modified. The remaining portion of the order is not interfered with in this appeal.

9. Accordingly, the Civil Miscellaneous Appeal is disposed of. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE B. KRISHNA MOHAN

JUSTICE A. HARI HARANADHA SARMA

08.05.2025
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THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN
AND
THE HON'BLE SRI JUSTICE A. HARI HARANADHA SARMA

C.M.A No.228 of 2024

8th May, 2025

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