



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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



PRESENT

THE HONOURABLE SRI JUSTICE B.KRISHNA MOHAN

AND

THE HONOURABLE SRI JUSTICE A.HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL NO: 228 OF 2024

Appeal filed under Section 104 and Order 43, Rule 1 (q) of CPC, praying that the High Court may be pleased to allow the appeal by setting aside 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, Guntur District, to the extent of Item No.1 of petition/plaint B-schedule property.

Between:

Kandimalla Tulasi Devi, W/o.Nageswara Rao, aged 70 years, D.No.4-19-13/2, Vijayapuri, JKC College Road, Guntur City.

...Appellant/2nd respondent/2nd Defendant

AND

1. Ponakala Balarama Sundari, D/o.Veera Sankara Rao, aged 43 years, R/o.D.No.4-19-6/3, 1st Line, Vijayapuri Colony, Guntur City.
2. Smt. Ponakala Rama Tulasamma, W/o.Veera Sankara Rao, aged 67 years, R/o.D.No.4-19-6/3, 1st Line, Vijayapuri Colony, Guntur City.
3. Ponakala Veera Sankara Rao, S/o.Late Balaramaiah, aged 73 years, R/o.D.No.4-19-6/3, 1st Line, Vijayapuri Colony, Guntur City.

...Respondents/Petitioners/Plaintiffs

4. Kandimalla Nageswara Rao, S/o.Late Veeraraghavaya @ Veeraraghavulu, aged 72 years, D.No.4-19-13/2, Vijayapuri, JKC College Road, Guntur City.
5. Kandimalla Srikanth, S/o.Satyananda Paramahamsa, aged 41 years, D.No.4-5-29/83, Ground Floor, 4/3 Lane, Vidyanagar, Guntur City.
6. Kandimalla Satyananda Paramahamsa, S/o.Late Veeraraghavaya @ Veeraraghavulu, aged 68 years, D.No.4-5-29/83, Ground Floor, 4/3 Lane, Vidyanagar, Guntur City.
7. Kandimalla Raghurama Rao, S/o.Late Veeraraghavaiah, aged 61 years, Nearby D.No.4-19-94/A, 7th Lane, Vikas Nagar, Guntur City.
8. Kandimalla Sai Krishna, S/o.Raghu Rama Rao, aged 36 years, Business, Nearby D.No.4-19-94/A, 7th Lane, Vikas Nagar, Guntur City.

(Notices to respondents 4 to 8 are not necessary)

**...Respondents/Respondents 1, 3 to 6/
Defendants 1, 3 to 6**

IA NO: 1 OF 2024

Petition filed 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 suspend the operation of Order and Decree dated 14.02.2024 passed in IA. No.1296 of 2023 in O.S. No.157 of 2023 on the file of III Additional District Judge, Guntur, Guntur District, to the extent of Item No.1 of Plaint/Petition B-Schedule Property, pending disposal of the above C.M.A.

IA NO: 2 OF 2024

Petition filed 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 dispense with the certified copy of the Order dated 20-11-2024 in C.M.A.No.228 of 2024.

IA NO: 3 OF 2024

Petition filed 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 modify the Order dated 20-11-2024 in C.M.A.No.228 of 2024, to the extent of directing the Appellant to deposit an amount of Rs.34,50,000/- (Rupees thirty four lakhs and fifty thousand only) in this Court through Demand Draft and restore the Order dated 12-09-2024.

IA NOS: 1 OF 2024, 2 OF 2024 AND 3 OF 2024: (Common CT)

Between:

1. Ponakala Balarama Sundari, W/o.V.Suresh Babu, D/o.Veera Sankara Rao, Hindu, aged 42 years, R/o.D.No.4-19-6/3, 1st Line, Vijayapuri Colony, Guntur City.
2. Smt. Ponakala Rama Tulasamma, W/o.Veera Sankara Rao, Hindu, aged 66 years, R/o.D.No.4-19-6/3, 1st Line, Vijayapuri Colony, Guntur City.
3. Ponakala Veera Sankara Rao, S/o.Late Balaramaiah, Hindu, aged 72 years, R/o.D.No.4-19-6/3, 1st Line, Vijayapuri Colony, Guntur City.

...Petitioners (Respondents 1 to 3 in CMA No.228 of 2024)

AND

1. Kandimalla Tulasi Devi, W/o.Nageswara Rao, Hindu, aged 69 years, Business, D.No.4-19-13/2, Vijayapuri, JKC College Road, Guntur City.

(Petitioner in CMA. 228 of 2024)

2. Kandimalla Nageswara Rao, S/o.Late Veeraraghavaya @ Veeraraghavulu, aged 71 years, Hindu, Business, D.No.4-19-13/2, Vijayapuri, JKC College Road, Guntur City.
3. Kandimalla Srikanth, S/o.Satyananda Paramahamsa, Hindu, aged 40 years, Business, D.No.4-5-29/83, Ground Floor, 4/3 Lane, Vidyanagar, Guntur City.
4. Kandimalla Satyananda Paramahamsa, S/o.Late Veeraraghavaya @ Veeraraghavulu, Hindu, aged 67 years, Business, D.No.4-5-29/83, Ground Floor, 4/3 Lane, Vidyanagar, Guntur City.
5. Kandimalla Raghurama Rao, S/o.Late Veeraraghavaiah @ Veeraraghavulu, Hindu, aged 60 years, Business, D.No.4-19-94/A, 7th Lane, Vikas Nagar, Guntur City.
6. Kandimalla Sai Krishna, S/o.Raghu Rama Rao, Hindu, aged 35 years, Business, D.No.4-19-94/A, 7th Lane, Vikas Nagar, Guntur City.

(Respondents 2 to 6 are not necessary parties)

...Respondents/Respondents

IA NO: 1 OF 2025

Petition filed 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 recall the Order dated 30-01-2025 passed in CMA. No.228 of 2024.

IA NO: 2 OF 2025

Petition filed 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 dispense with filing of the certified copy of the Order dated 30-01-2025 passed in CMA.No.228 of 2024.

IA NO: 3 OF 2025

Petition filed 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 stay the operation of the Order dated 30-01-2025 passed in CMA.No.228 of 2024 pending disposal of the recall petition.

Counsel for Appellant :Sri Siva Rama Krishna Kolluru

Counsel for the Respondent Nos.1 to 3:Sri M.Chalapati Rao

The Court made the following:

APHC010154452024



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3527]

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.

//TRUE COPY//

Sd/- K. TATA RAO
DEPUTY REGISTRAR


SECTION OFFICER

To,

1. The III Additional District Judge, Guntur, Guntur District. (With records if any)
2. One CC to Sri Siva Rama Krishna, Kolluru, Advocate [OPUC]
3. One CC to Sri M.Chalapathi Rao, Advocate [OPUC]
4. The Section Officer, VR Section, High Court of Andhra Pradesh at Amaravati.
5. **Three CD Copies**
BSV
Cnr

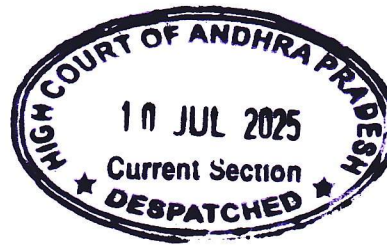
HIGH COURT

BSV

DATED:08/05/2025

JUDGMENT

CMA.NO.228 OF 2024



DISPOSING OF THE CMA WITHOUT COSTS