

HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

MAIN CASE: **C.M.A.No.228 of 2024**

PROCEEDING SHEET

SL. No.	DATE	ORDER	OFFICE NOTE
7.	20.11.2024	<u>RNT,J & CGR,J</u> On 12.09.2024, common order was passed in C.M.A.228 of 2024 and C.R.P.No.1083 of 2024, which reads as follows : <i>“Heard Sri N.Subba Rao, learned Senior Counsel, assisted by Sri Siva Rama Krishna Kolluri, learned counsel for the appellant/2nd defendant.</i> 2. <i>This appeal is filed challenging the order of attachment before judgment passed under Order 38 Rule 6 of the Code of Civil Procedure(for short ‘C.P.C’) in O.S.No.157 of 2023 on the file of the III Additional District Judge, Guntur, by order dated 14.02.2024. The appeal is filed only by the 2nd defendant in the suit, to the extent of attachment of property in item No.1 of the ‘B’ plaint schedule property.</i> 3. <i>One of the submissions advanced by the learned Senior Counsel for the appellant is that the conditional order of attachment under Order 38 Rule 6 C.P.C, granted 48 hours time to produce the solvency sureties for the suit amount on receipt of notice, which as per the case of the 2nd defendant was served on the 6th defendant on 29.10.2023. He submits that the period of 48 hours would start from 29.10.2023, the date of service on the 6th defendant, served lastly. The conditional order of attachment could not be therefore effected on 29.10.2023 i.e. not before 31.10.2023. Consequently, the appellant/2nd defendant, had no opportunity to make compliance with the conditional order by furnishing the security for the amount, which as per the plaint averment is said to have been advanced to the 2nd defendant through the 6th</i>	(contd..)

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		defendant. Learned counsel for the appellant submits that as on today itself, the appellant is ready and willing to furnish the security before the learned court for the said amount as attributed to the 2nd defendant in the plaint. 4. At this stage, Sri M.Chalapathi Rao, learned counsel appearing through virtual mode, for the plaintiffs/respondent 1 to 3 submits that the matter may be posted in the next week to enable him to appear personally 5. Sri M.Chalapathi Rao, learned counsel for the plaintiffs/respondent 1 to 3 further submits that C.R.P No.1083 of 2024 has been filed against the same order of the learned court, but with respect to item No.7 of 'B' schedule property, from which the conditional attachment has been withdrawn. The petitioners/plaintiffs therein, have also filed an application for converting the C.R.P into C.M.A. 6. Post on 15.10.2024. 7. Considering that the 2nd defendant/appellant is ready to furnish the security as aforesaid, but without entering into the merits of the submission advanced at this stage, as an interim measure, we grant liberty to the 2nd defendant/appellant to file appropriate application before the learned court of III Additional District Judge, Guntur, for furnishing the security with respect to the amount of Rs.34,50,000/- attributed to the 2nd defendant through the 6th defendant in the plaint and if such an application is filed, after giving due opportunity to the plaintiffs/respondents 1 to 3, appropriate orders will be passed by the learned court with respect to item No.1 of the plaint 'B' schedule property under attachment by the order impugned. 8. On the next date, a copy of the order to be so passed, shall be filed by the 2nd defendant/appellant. The said order shall remain subject to the further orders, passed in this appeal. 9. Interim order granted earlier in C.R.P.No.1083 of 2024 is extended till the next date of listing.	

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		2. Sri K. Sivarama Krishna, learned counsel for the appellant in C.M.A.No.228 of 2024 submits that the appellant could not comply with the order, dated 12.09.2024, as the copy of the said order was not received by him. He submits that the copy of the order, dated 12.09.2024 was not uploaded in the file of C.M.A.No.228 of 2024. 3. We are informed that the copy of the order was uploaded in both the cases. Besides the copy of the order, dated 12.09.2024 in C.R.P.No.1083 of 2024 was sent to the III Additional District Judge, Guntur as well, where the appellant had to file appropriate application, for which liberty was granted. The order, dated 12.09.2024 was passed in the presence of the learned counsel for the appellant. So, we do not find any sufficient reason for the appellant not to file appropriate application, pursuant to the order, dated 12.09.2024. 4. The Interim order was granted, considering the submissions advanced that the appellant was ready to furnish the security with respect of the amount of Rs.34,50,000/- attributed to the 2nd defendant. Learned counsel for the appellant prays for extension of the interim order.	

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		5. As the appellant failed to take steps, pursuant to the order of this Court passed in C.M.A.No.228 of 2024 dated 12.09.2024, we modify the interim order, dated 12.09.2024 by providing that the appellant shall deposit an amount of Rs.34,50,000/- (<i>Rupees thirty four lakhs and fifty thousand only</i>) in this Court through Demand Draft by the next date of listing, failing which, the interim order shall stand vacated in C.M.A. RNT,J CGR,J RPD	

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