

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No: C.R.P.No.1381 of 2026

PROCEEDING SHEET

Sl. No.	DATE	ORDER	OFFICE NOTE
1.	05.05.2026	<u>RNT,J</u> Heard Sri Ravuri Leela Sai Sampath, learned counsel for the petitioner. 2. The petitioner is the Judgment debtor No.3. 3. The suit in O.S.No.267 of 2009 has been filed by the plaintiff/respondent No.1 for recovery of amount i.e., principal, interest, and costs of the suit, which was decreed by judgment and decree dated 13.02.2017, which reads as follows: <i>“i) that the suit be and the same is decreed in part in favour of the plaintiff with proportionate costs;</i> <i>ii) that the defendants Nos.1 to 4 shall jointly and severally pay to the plaintiff a sum of Rs.11,50,000/- (Repees eleven lakhs fifty thousand only) with subsequent interest @ 18% per annum from the date of Ex.A1 i.e., 09.01.2008 till the date of filing of the suit i.e., 05.10.2009 and thereafter at 12% interest per annum on the principal amount of Rs.11,50,000/- from the date of filing of the suit 05.10.2009 till the date of realization of the entire amount:</i> <i>iii) that the defendants do pay to the plaintiff a sum of Rs.49,639/- (Rupees Forty Nine Six Hundred And Thirty Nine Only) towards proportionate costs.”</i>	Contd...

		4. The A.S.No.74 of 2020 was filed challenging the said decree and judgment along with I.A.No.1 of 2020 seeking condonation of delay in filing the appeal by the judgment debtors (the present petitioner and the respondent Nos.2 & 3), I.A.No.1 of 2020 was dismissed finding no sufficient cause to condone the delay. The appeal was also dismissed as barred by limitation vide judgment and decree dated 24.12.2024 passed by a Coordinate Bench of this Court. 5. Learned counsel for the petitioner submits that the decree passed in the suit has attained finality; however, the same has not been complied with. Subsequently, the plaintiff/decreed holder filed E.P.No.72 of 2019, which is pending in the Court of the learned Principal District and Sessions Judge, Visakhapatnam. In the said case, an order dated 18.03.2026 has been passed for the sale proclamation and sale on 20.04.2026, fixing for further hearing on 27.04.2026. The said order is with respect to the property attached in the execution petition. He submits that the said property was attached in the E.P., but the E.P. itself was dismissed for default firstly on 06.09.2023, which was restored, but thereafter, it was again dismissed for default on 02.05.2024. He submits that though the E.P. was dismissed for default, but the Court never passed any order indicating the period upto which the attachment will continue or	Contd...
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	the date on which such attachment shall be seized. He submits that in view of Order 21 Rule 57(2), in the absence any such direction, the attachment shall be deemed to have seized and consequently, in view of the judgment of the Hon'ble Apex Court in <i>Indira Devi Arya v. Bajrang Lal Khaitan and others</i>, reported in 2002 (1) ALD 103 (SC), on restoration of the execution petition, the order of attachment would still remain non-existent and could not have been automatically revived. No order for sale or the proclamation of sale could be passed with respect to such E.P. schedule property. 6. In <i>Indira Devi Arya v. Bajrang Lal Khaitan (supra)</i>, the Hon'ble Apex Court held as under: <i>“in the present case, we find that at the time when execution case was dismissed for default, the executing Court did not pass any order extending the period of attachment. Therefore, after the restoration of the execution case, the order of attachment remained non-existent and could not have been automatically revived on the restoration of execution case. We are therefore, of the view that in law earlier order of attachment, if not extended by the Court, stood vacated and would not revive on restoration of the execution case”.</i> 7. Issue notice to respondent No.1. 8. In addition to the normal mode of service, the appellant is permitted to take out personal notice to the respondent No.1 by Registered Post and Acknowledgment Due and file	Contd...
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	proof of service in the Registry before the next date of listing. 9. List on 07.07.2026. 10. On consideration of the aforesaid submissions, but at the same time, after considering that the decree has attained finality, after dismissal of the appeal as barred by limitation, to meet both the ends of justice, it is provided that subject to the petitioner depositing the E.P. amount within a period of two (2) months from today i.e, depositing the entire amount before the Execution Court, no coercive action would be taken against the petitioner or with respect to the E.P. schedule property. 11. In case of default or non-compliance, the learned Execution Court shall be at liberty to proceed further pursuant to the same impugned order in accordance with law. <u>RNT,J</u> Note: CC by one week B/o. KNN	
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