

Date of reserved for orders: 04.08.2026
Date of pronouncement : 12.08.2026
Date of uploading : 12.08.2026

APHC010401072025



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

[3331]

WEDNESDAY, THE 12th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2068/2025

Between:

1.SAGIRAJU VIJAYA LAKSHMI, C/O.LATE.SAGIRAJU RAVI KUMAR, AGED ABOUT 40 YEARS, OCCHOME MAKER, PLOT NO.24, SAI ABHILASH NAGAR, NEAR PRABHAVATHI VIDYA NIKETAN SCHOOL, SAMARLAKOTA, EASTGODAVARI DISTRICT.

...PETITIONER

AND

1.MOHAMMED BASHA, S/o.Ahmed Ali, Aged about 38 Years, OccBusiness, D.No.46-8-15/4, Revenue Colony, Jagannaikpur, Kakinada, Eastgodavari District.

...RESPONDENT

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased to be aggrieved by the condition of deposit as imposed under impugned Order dt.17.07.2025 of the Learned III Additional District Judge, East godavari District, Kakinada made in I.A.No.1170 of 2025 in C.M.A.No.16 of 2025. The Petitioner herein beg to present this Memorandum of Civil Revision Petition to this Honble Court on fowing among other

IA NO: 1 OF 2025

Petition 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 suspended condition of deposit of 50% of decretal amount as imposed under impugned order dated:17.07.2025 made in I.A.No.1170 of 2025 in C.M.A.No.16 of 2025 on the file of III Additional District Judge, East godavari District, Kakinada till disposal of the Revision Petition and pass

IA NO: 1 OF 2026

Petition 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 Vacate the interim order dated 22.08.2025 passed in CRP No. 2068 of 2025 and pass

Counsel for the Petitioner:

1.D V V S S N H BHUJANGA RAO

Counsel for the Respondent:

1.POSANI AKASH

The Court made the following:

ORDER

This Civil Revision Petition was filed against the docket order dated 17.07.2025 in I.A.No.1170 of 2025 in C.M.A.No.16 of 2025 on the file of III Additional District Judge, Kakinada, imposing a condition of deposit of 50% decretal amount before the trial Court on or before 01.08.2025, while granting stay in E.P.No.121 of 2022 in O.S.No.702 of 2020 on the file of V Additional Civil Judge (Junior Division), Kakinada.

2. The respondent, being the plaintiff, filed the suit O.S.No.702 of 2020 against the revision petitioner and her husband for recovery of amount. The 1st defendant in the suit died. The 2nd defendant remained *ex parte*. The suit was decreed *ex parte* on 27.06.2022.

3. The 2nd defendant filed I.A.No.204 of 2025 to set aside the *ex parte* decree dated 27.06.2022. The said application was dismissed on 23.06.2025. Against the said order, she filed C.M.A.No.16 of 2025 on the file of III Additional District Judge, Kakinada. Along with C.M.A, she also filed I.A.No.1170 of 2025 under Order XLI Rule 5 of CPC to stay the operation of the *ex parte* decree dated 27.06.2022 in O.S.No.702 of 2020.

4. In the affidavit filed in support of the petition, it was pleaded that the application filed by the 2nd defendant to set aside the *ex parte* decree was dismissed and the decree holder filed E.P.No.121 of 2022 and he is proceeding with the execution.

5. The appellate Court by docket order dated 17.07.2025 granted stay of execution on a condition that the petitioner shall deposit 50% of the decretal amount before the trial Court on or before 01.08.2025 and further, directed the petitioner to cooperate with the disposal of C.M.A.No.16 of 2025.

6. Heard Sri D.V.V.S.S.N.H.Bhujangarao, learned counsel for the petitioner and Sri P.Akash, learned counsel for the respondent.

7. Learned counsel for the petitioner would submit that imposing the condition to deposit 50% of the decretal amount is onerous. He relied on the judgment of the learned single Judge of the composite High Court of Andhra Pradesh in **Rajeswara Industries & others Vs. State Bank of Hyderabad, Karimnagar Branch**¹.

8. Sri P.Akash, learned counsel for the respondent, on the other hand, would submit that the suit was filed for recovery of 10,41,600/-

¹ 1991 (2) ALT 365

against the petitioner and her husband. In the suit, the plaintiff filed an application under Order XXXVIII Rule 5 of CPC seeking attachment of the schedule property and the same was ordered on 07.12.2020. Pending the suit, the 1st defendant died. The 2nd defendant was set *ex parte*, since no written statement was filed. Thereafter, the plaintiff was examined himself as P.W.1 and got marked Exs.A1 and A2. The suit was decreed on 27.06.2022. The decree holder filed E.P.No.121 of 2022. In E.P., the judgment debtor was *ex parte* on 20.06.2024. The judgment debtor filed an application under Order XXI Rule 106 of CPC to set aside the *ex parte* order and the same was allowed on 13.11.2024. The judgment debtor filed another application, E.A.No.107 of 2024 under Order XXI Rule 26 of CPC seeking stay of further proceedings. The said application was allowed subject to the judgment debtor furnishing security for the E.P. amount, and since the judgment debtor failed to furnish the security amount, the interim order was vacated. Thereafter, the judgment debtor filed I.A.No.204 of 2025 to set aside the *ex parte* decree and the same was dismissed. Questioning the said order, C.M.A.No.16 of 2025 was filed. The appellate Court, in the facts and circumstances of the case, directed the judgment debtor to deposit 50% of the decretal amount, and the said condition is not onerous.

9. Now, the points for consideration are:

- 1) Whether the condition imposed by the appellate Court, while granting a stay, directing the judgment debtor to deposit 50% of the decretal amount in E.P.No.121 of 2022 in O.S.No.702 of 2020 is onerous?**
- 2) Whether the docket order dated 17.07.2025 in I.A.No.1170 of 2025 in C.M.A.No.16 of 2025 on the file of III Additional District Judge, Kakinada, suffers from illegality?**

10. The facts narrated *supra* require no reiteration. The appellate Court, in fact, opined that in the event of the Court considering the CMA, then there would be no point in continuing with the executing proceedings. Further it was observed that CMA itself can be disposed of on receipt of the trial Court record to avoid any complicity in the matter. Having observed so, whether directing the petitioner to deposit 50% of the decretal amount is reasonable, equitable and onerous. The answer to the question, in the considered opinion of this Court, is that imposing such a condition is onerous.

11. In **Rajeswara Industries** (*supra*), the learned single Judge of the composite High Court held thus:

“4. From a reading of the aforesaid provision of Order IX Rule 13, C.P.C. it is clear that the court shall make an order setting aside the decree if sufficient cause is established, upon such terms as to costs, payment into the Court of otherwise as it thinks fit. But the court cannot, even before going into the merits of the application filed under Order IX Rule 13, C.P.C impose conditions upon the defendants for depositing the costs or part or whole of the suit amount as a condition precedent for entertaining the said I.A.... “

The learned single Judge relied on the judgment of the Madras High Court in **Narayanan Vs. Chidambaram**², wherein a Division Bench of the Madras High Court held thus:

“The court had no power to order pending trial of an application under Order IX, Rule, 13, C.P.C. the defendants to deposit the costs of the suit or furnish security for the decretal amount.”

² AIR 1940 Mad 585

12. In this case on hand, the discretion exercised by the appellate court insofar as directing the revision petitioner to deposit 50% of the decretal amount, even before deciding the C.M.A.No.16 of 2025 is onerous, and such condition needs to be interdicted.

13. Given the facts and circumstances of the case, the Civil Revision Petition is disposed of directing the revision petitioner to deposit the suit costs to the credit of the suit, instead of 50% of the decretal amount as directed in I.A.No.1170 of 2025, within a period of three (03) weeks from the date of receipt of a copy of this order. The revision petitioner shall cooperate for speedy disposal of C.M.A.No.16 of 2025, as directed by the appellate Court. No order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

JUSTICE SUBBA REDDY SATTI

PVD

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No