

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE DR JUSTICE K MANMADHA RAO
IA No. 1 OF 2021
IN
AS NO: 25 OF 2014



Between:

Dr. Chintamaneni Suresh, Son of Shyama Sunder Rao, aged 57 years, Resident of
Care of Manipal Hospitals (Saumya Hospitals), Tadepalli, Guntur District.

...Appellant/Defendant
(Petitioner in AS 25 OF 2014
on the file of High Court)

AND

Dr. Haranath Babu Rao Tipirneni, Son of Late Guruvaiah, aged 74 years, resident of
No. 44, Halcyon Defence Enclave, Opposite Country Club North, Sathanur Village,
Post Office Bagalur, Jalahobli Mandal, Bangalore North. 562149.

...Respondent/Plaintiff
(Respondents in-do-)

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 permit
the petitioner to deposit the interest part of amount as per the decree in OS
234/2007 on the file of District judge at Guntur as per order dated 10-11-2014 in AS
95/2014 in As No. 25 of 2014 and any other orders Pending disposal of AS No. 25
of 2014, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the
affidavit filed in support thereof and the order of the High Court dated 30.01.2014,
10.11.2014 made herein and upon hearing the arguments of Sri P RAJA SEKHAR
along with Sri T V P SAI VIHARI Advocate for the Appellant(s) and of Sri K V PAVAN
KUMAR, Advocate for the Respondent, the Court made the following

ORDER

**"This application has been filed by the petitioner/ appellant/
defendant /J.Dr to permit the petitioner to deposit the interest part of the
amount as per the decree, in terms of the interim order, dated 10.11.2014.**

2. On 30.01.2014, this Court passed the following order:

**"Sri K. Vijay Chowdary, who entered appearance for the sole
respondent, seeks time for filing counter.**

Post after four (4) weeks.

In the meanwhile, there shall be interim stay as prayed for, subject to the condition of the petitioner/appellant depositing Rs.30 Lakhs (Rupees thirty lakhs only) within six (6) weeks from today. On such deposit, the respondent is at liberty to withdraw the same without furnishing any security.

3. Learned counsel for the appellant submits that an amount of Rs.30 Lakhs was deposited in terms of the above order.

4. On 10.11.2014, this Court passed a detailed order. Operative portion of the said order, reads as under:

"Therefore, in view of the findings recorded by the Court below, we are of the view that interim order granted by this Court on 30.1.2014 shall be continued on condition of the petitioner/appellant depositing half of the decretal amount due as on date to the credit of the suit OS No.234 of 2007 within a period of six weeks from today. It is made clear that the amount of Rs.30,00,000/- alleged to have been deposited pursuant to the interim order dated 30.01.2014 shall be given credit to. Failing to deposit the same, it is open to the respondent/plaintiff to execute the decree without reference to the pendency of the appeal before this Court. on such deposit, the respondent/plaintiff is permitted to withdraw the same without furnishing any security.

5. Thus, vide order, dated 10.11.2014, the appellant was directed to deposit half of the decretal amount due as on that date minus Rs.30,00,000/- within six weeks from that date

6. Learned counsel for the appellant submits that the entire amount in terms of the order, dated 10.11.2014 was not deposited but only Rs.24,51,518/- was deposited.

7. The appellant has filed a Memo of Calculation, which calculation is disputed by the learned counsel for the respondent.

8. Learned counsel for the respondent/D.Hr submits that, as per the Memo filed by the appellant/J.Dr in E.P.No.6 of 2021 in O.S.No.234 of 2007, as on 20.06.2023, towards decretal amount, a sum of Rs.2,19,04,648/- was outstanding. Copy of the said memo is placed before us and is taken on record.

9. Sri P. Rajshekhar along with Sri T.V.P.Sai Vihari, learned counsel for the appellant, submits that, the appellant is ready to deposit 50% of the entire decretal amount, outstanding as on this day, to stay the further proceedings of pending execution case, as per the memo of calculation filed by the appellant in E P No.6 of 2021.

10. Learned counsel for the appellant submits that the amount so deposited by the appellant may be withdrawn by the respondents/D.Hrs. The appellant has no objection to withdrawal of such amount by the respondents/D.Hrs

11. In view of the above, without determining as to which calculation memo is correct, but as the appellant is prepared to deposit 50%, of the calculation (copy of which is submitted by respondent's counsel), we direct the appellant that 50% of the amount i.e., Rs.1,08,02,328/-, rounded to Rs.1,09,00,000/- shall be deposited by him, within a period of two (02) weeks from today before the Executing Court/Trial Court.

12. On such deposit being made, further proceedings in the E.P.No.6 of 2021 in O.S.No.234 of 2007 shall remain stayed as also for a period of two (02) weeks from today.

13. In case of default, the Execution Court shall proceed further with the execution of the decree.

14. We grant liberty to the respondents/D.Hrs to withdraw the amount deposited by the appellant, as aforesaid, without furnishing any security subject to the further orders in this appeal.

15. The I.A. No.1 of 2021 stands disposed of."

Sd/- V. SAVITRI GOWRI
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The District judge at Guntur District, Guntur.
2. Dr. Haranath Babu Rao Tipirneni, Son of Late Guruvaiah, aged 74 years, resident of No. 44, Halcyon Defence Enclave, Opposite Country Club

North, Sathanur Village, Post Office Bagalur, Jalahobli Mandal, Bangalore
North. 562149. (By RPAD)

3. One CC to SRI. T V P SAI VIHARI Advocate [OPUC]
4. One CC to SRI. B V BAKSHI Advocate [OPUC]
5. One CC to SRI. K V PAVAN KUMAR Advocate [OPUC]
6. Two spare copies.

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HIGH COURT

RNTJ
DRKMRJ

DATED:11/07/2023

ORDER

IA No. 1 OF 2021
IN
AS NO: 25 OF 2014

DIRECTION

