

**THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

:PRESENT:

**THE HONOURABLE SRI JUSTICE K.LAKSHMAN
AND
THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO**

**IA No. 2 OF 2026
IN
AS NO: 13 OF 2026**

Between:

JSR Durga Prasad, S/o. Late J.S. Sarma.

...Petitioner

(Appellant in AS 13 OF 2026
on the file of High Court)

AND

1. G.Raghavulu, S/o. Late G.Gopaiah Age 73 years, Occ Retired Employee, R/o. H.NO. HIG-279, Madhavanagar, BHEL Townshp, Ramachandrapuram, Sanga Reddy.
2. G. Vijaya, W/o. G. Raghavulu Age 69 years, Occ Business, R/o. H.NO. HIG-279, Madhavanagar, BHEL Townshp, Ramachandrapuram, Sanga Reddy.

...Respondents

(Respondents in-do-)

Counsel for the Petitioner : Sri GOPALA RAO AMANCHARLA V

Counsel for the Respondents : ANUP KOUSHIK KARAVADI

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 grant stay of operation of the Judgment and Decree of the Principal District and Sessions Judge, Sangareddy passed in OS No. 175/2017, dt. 01/08/2024, pending disposal of AS No. 13 of 2026, on the file of the High Court.

The Court made the following

ORDER

**Heard Sri Vedula Srinivas, learned senior counsel representing Sri
Gopala Rao Amancharla, learned counsel appearing for the petitioner**

and Sri Anup Koushik Karavadi, learned counsel appearing for the respondents.

This application is filed to grant stay of the operation of the judgment and decree dated 01.08.2024 in O.S.No.175 of 2017 passed by the learned Principal District and Sessions Judge, Sanga Reddy.

Sri Vedula Srinivas, learned senior counsel appearing for the respondents would contend that the learned Trial Court did not consider the evidence both oral and documentary. There is inconsistency in the pleadings of the plaintiffs. Even during the cross examination, PW1 specifically admitted that it is only a transfer of loan, there is no transfer of money involved. Referring to the pleadings of plaint, rejoinder and also admissions made by PW1 during the cross examination, he would contend that there is no consideration of the same by the Trial Court in the impugned judgment and decree, therefore, he seeks blanket stay.

Whereas, learned counsel appearing for the respondents would contend that rejoinder filed by the respondents – plaintiffs is only by way of clarification to the written statement filed by the petitioner herein. Petitioner has categorically admitted his signature and writing on Ex.A25 and all the pro-notes. Therefore, the petitioner is not *bona fide* in prosecuting the present appeal and he is adopting delay tactics.

In support of the aforesaid contentions, he has placed reliance on the principle laid down by the Apex Court in *Lifestyle Equities C.V. and Others Vs. Amazon Technologies Inc.* – [MANU/SC/1388/2025 = 2025 INSC 1190] and also in *Nandkishore Lalbhai Mehta Vs. New Era Fabrics Private Limited and Others* – [(2015) 9 SCC 755].

In *Lifestyle Equities* supra, the Apex Court had an occasion to consider the scope and ambit of Order XLI more particularly Order XLI Rule 1 Sub Rule 3 and Order XLI Rule 5 Sub Rule 5 and summarize certain conclusions in paragraph Nos.134 and the same are extracted below:

“134. We summarize our final conclusion on the grant of benefit of stay of execution of a decree by an appellate court in term of Order XLI as under: -

(I) Order XLI Rule 5 contains the provision for the grant or refusal of stay of execution of the decree by the appellate court under the Code of Civil Procedure. It categorically stipulates that mere filing of an appeal against an order of execution, shall not ipso facto operate as stay of proceedings. Any execution proceeding or an order therein, shall be stayed only if a specific, reasoned order granting such stay is passed by the appellate court, after proper application of mind.

(II) For the grant of stay of execution of a decree in terms of Order XLI, a prayer to such effect has to be specifically made to the appellate court and the appellate court has the discretion to grant an order of stay or to refuse the same.

(III) Order XLI Rule 5(3) of the Code of Civil Procedure provides for satisfaction regarding sufficient cause as a pre-condition for granting benefit of stay of execution of decree, and it casts an obligation upon the appellate court to record its satisfaction for stay of execution such decree.

(IV) The power of the Appellate Court to order stay of execution of the decree is circumscribed and made subject to the existence of a "sufficient cause" in favour of the Appellant being shown. In order to ascertain whether a "sufficient cause" exists for the grant of stay of execution of a decree under Order XLI of the CPC, the appellate court as per Sub-rule (3) of Rule 5 is required to examine:-

(i) Whether there will be substantial loss to the party applying for stay;

(ii) Whether the application has been made without unreasonable delay;
and

(iii) Whether security has been given by the applicant for due performance of the decree.

(V) For the grant of stay of execution of the decree, the appellate court is required, after perusing the materials on record, to assign reasons for its satisfaction regarding the existence of a "sufficient cause". Such reasons should be cogent and adequate. The reasons assigned must indicate the necessity for the status quo prevailing on the date of the decree and/or the date of making of the application for stay, to continue by granting stay, and not merely the reasons why stay should be granted.

(VI) Although, Order XLI Rule 5 of the CPC, uses the word "shall", yet a combined reading of the sum and substance of Rule(s) 1(3) and 5(5) would reveal, that for the grant of stay of execution, it is not mandatory for the appellate court to impose a condition for deposit of the amount in dispute. The aforesaid provisions make it abundantly clear that the appellate court, for the grant of

stay of execution, has a discretion to impose a condition of deposit of the amount depending on the facts and circumstances of each case.

(VII) A deposit is not a condition precedent for an order of stay of execution of the decree by the appellate court. The only guiding factor and statutory mandate, for the grant of such stay of execution as indicated in Rule 5, is the existence of "sufficient cause" in favour of the Appellant, on the availability of which the appellate court would be inclined to pass an order of stay.

(VIII) For the grant of benefit of an unconditional stay of execution of a decree, an exceptional case has to be made out before the appellate court. This discretion of the appellate court to grant an unconditional stay of execution of decree must not be exercised arbitrarily. It must be exercised sparingly and only if an exceptional case is made out for such stay in view of the peculiar facts and attending circumstances of the case before it.

(IX) A lodestar for bringing a case within the purview of "exceptional case" for the purpose of granting benefit of unconditional stay of the execution of money decree by the appellate court would be, if the money decree in question: -

- (i) is egregiously perverse;
- (ii) is riddled with patent illegalities;
- (iii) is facially untenable; and/or
- (iv) such other exceptional causes similar in nature.

(X) For the purpose of the grant or refusal of stay of execution of the decree Under Rule 5 of Order XLI, it is immaterial whether the decree is a money decree or any other decree. The language couched in the said provision is very clear. Order XLI, Rule 5 of the makes no distinction between a money decree and other decrees, and the said provision applies with full rigour in both instances. Yet as a rule of prudence and established practice evolved over a period of time, no stay of execution of a money decree should be granted, except on the condition that the decretal amount be deposited in the court. However, such condition for deposit cannot be said to be mandatory and non-prescription thereof does not operate as a bar to staying the execution of a money decree.

(XI) There is no provision Under Order XLI Rule 5 of the Code of Civil Procedure imposing a mandate to deposit cash security as the only mode of security for execution of the decree. Security, for the purpose of the said provision, can be in the shape of property, bond and or in the form of an appropriate undertaking from the appellant to abide by the decree, seeking stay of execution."

In Nandkishore Lalbhai Mehta supra, the Apex Court had an occasion with regard to consideration of evidence with regard to facts

not pleaded etc. However, the said aspect can be considered while hearing the appeal finally.

Learned senior counsel for the petitioner would further contend that respondents did not even take steps to amend the pleadings.

As discussed supra, the suit is filed for recovery of money and *vide* impugned judgment learned Trial Court decreed the said suit and directed the petitioner herein to pay amount of Rs. 2,34,60,000/- and subsequent interest has awarded on the principal amount of Rs.1,38,00,000/- at the rate of 12% from the date of the suit till the date of decree and at the rate of 6% from the date of the decree till the date of realization.

It is also apt to note that present appeal is continuous to the suit i.e., O.S.No.175 of 2017. It is also apt to note that there is delay of 348 days in preferring the appeal. Today we have condoned the said delay by allowing I.A.No.1 of 2026.

In the light of the aforesaid submissions, it is apt to note that several grounds and contentions raised by the petitioner and respondents can be considered at the time of hearing of the Appeal, finally. It is not an exceptional case to grant blanket stay.

In the light of the same, there shall be stay of operation of the impugned judgment and decree on the condition that the petitioner depositing 50% of the decretal amount to the credit of the suit in Trial Court within six weeks from the date of receipt of a copy of this order.

Sd/- MOHD.ISMAIL
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Principal District and Sessions Judge, Sangareddy.
2. G.Raghavulu, S/o. Late G.Gopaiah Age 73 years, Occ Retired Employee, R/o. H.NO. HIG-279, Madhavanagar, BHEL Townshp, Ramachandrapuram, Sanga Reddy.(By SPAD)
3. G. Vijaya, W/o. G. Raghavulu Age 69 years, Occ DBusiness, R/o. H.NO. HIG-279, Madhavanagar, BHEL Townshp, Ramachandrapuram, Sanga Reddy. (By SPAD)
4. One CC to SRI. GOPALA RAO AMANCHARLA V Advocate [OPUC]
5. One spare copy

HIGH COURT

**KL, J
and
BRMR, J**

DATED:19/02/2026



**ORDER
I.A.No.2 of 2026
IN
AS.No.13 of 2026**

STAY