

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.443 of 2015

ORDER:

Learned counsel for the petitioner was not present on 02.11.2015 in the morning as well as in the afternoon, even though the matter was passed over in the morning. It was posted to 09.11.2015, but due to my absence on that day, it was listed on 12.11.2015. On 12.11.2015, the learned counsel for the petitioner was present and it was adjourned to today in order to ascertain the stage of the proceedings in the lower Court. Today when the matter reached, a representation was made on behalf of the learned counsel for the petitioner seeking adjournment and the matter was passed over and is taken at 1.00 pm. At 1.00 pm, the learned counsel for the petitioner is absent and a request is made seeking further adjournment and the same is refused.

2. The present Civil Revision Petition is filed by the defendant in O.S.No.970 of 2014 challenging the order dated 31.12.2014 in I.A.No.1158 of 2014 passed by the II Additional Senior Civil Judge, Warangal (for short, trial Court) calling upon the petitioner herein along with second respondent to furnish third party security for a sum of Rs.9,07,398/- within 48 hours with a conditional order of attachment of petition schedule property, in case of failure to furnish the said security.

3. The learned counsel for the respondent submitted that by the time of filing of the present Civil Revision Petition, the order of attachment was effected on 12.01.2015 itself.

4. This Court, while issuing notice before admission on 09.02.2015, directed the learned counsel for the petitioner to take notice to the respondents by registered post with acknowledgment due and file proof of service. However,

the matter was taken up on 13.02.2015 (in the proceedings, it was wrongly mentioned as 13.02.2014) and an interim suspension was granted. On 14.10.2015, it was directed to be posted after Dassera Vacation and that is how the matter was listed before this Court on 02.11.2015.

5. In view of the implementation of the order passed by the trial Court on 12.01.2015, the impugned order of suspension granted on 13.02.2015 does not enure to the benefit of the petitioner. However, the petitioner did not show his bona fides by furnishing security.

6. The learned counsel for the respondent relies on the decision of a Division Bench of this Court in **DCE and CC v. Garikipati Radha Krishnaiah** and submits that the order of the trial Court is valid. In view of the same, it cannot be held that the impugned order of the trial Court is void. The reliance placed by the learned counsel for the petitioner on a decision of the learned single Judge in **Mahindra & Mahindra Financial Services Ltd. v. T.Durga Goud** is of no avail.

7. In the circumstances, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 13.11.2015

TJMR