

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.4626 & 5029 of 2011

COMMON ORDER:

Heard both sides and perused the material on record.

The short question involved is whether the conditional order imposed by the Court in the application of the judgment debtor under Order XXI Rule 90 CPC to deposit the EP amount following the Andhra Pradesh amendment same as Madras amendment of 1936 is correct.

In fact a Division Bench of this Court in **Papayamma v. Margadarsi Chit Funds**^[1], categorically held referring to the said amended provision of the State amendment and the subsequent amendment undergone to Rule 90 in the year 1976 by CPC amendment under Act No.104 of 1976 and held that in view of the Central amendment that prevail over the State amendment, the State amendment has less efficacy to enforce.

A perusal of the textbooks clearly envisages the Central amendment undergone to entire Rule 90 Order XXI CPC by the CPC amendment of Act No.104 of 1976. In view of the same, when the State amendment has no sanctity to prevail, the direction based on the State amendment by the lower Court is once unsustainable; the civil revision petitions are to be allowed by remanding the matter to be decided by the executing Court afresh.

Accordingly, the Civil Revision Petitions are allowed by setting aside the impugned orders of the lower court dated 11.10.2011 and 17.10.2011 and restore the applications under Order XXI Rule 90 CPC by closing the subsequent further proceedings to decide afresh on the applications under Order XXI Rule 90 CPC.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 24.06.2016
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[\[1\]](#) 1984 (2) APLJ 280(DB)