

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

TUESDAY, THE SIXTH DAY OF OCTOBER,
TWO THOUSAND AND FIFTEEN

:PRESENT:

THE HON'BLE DR JUSTICE: B.SIVA SANKARA RAO

CRP .NO:4205 of 2015

Between:

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M/s. Sai Ganesh Minerals, Rep. by its Proprietor, V.Venkata Subba Reddy, S/o. Prabhakar Reddy, Regd. Office at D.No.2/183A, Kapupalle, Mangampet, Railway Koduru, Kadapa District
..... Petitioner/Respondent/Plaintiff
AND

1. M/s. Ashapura Minechem Ltd., Regd. Under Companies Act, Having its Office at Jeevan Udyog Building, III Floor, 278, D.N. Road, Fort, Mumbai - 400 001. Rep. by Sri Gopalakrishnan, S/o. Subramanian, No.93, Amarnaiah Street, George Town, Chennai - 600 001.
2. The Managing Director, Andhra Pradesh Mineral Development Corporation, Khiratabad, Hyderabad.

.....Respondents/
Petitioner and Garnishee

Petition under Article 227 of the Constitution of India, Aggrieved by the order dated 07-04-2015 passed in IA.No. 92 of 2015 in O.S. No. 8 of 2015 on the file of III Additional District Judge, Rajampet, Kadapa District.

CRP.MP. No. 5583 of 2015: Petition under Section 151 of C.P.C. praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to direct the 2nd Respondent to withhold the suit claim and release the balance amount, pending disposal of CRP No. 4205 of 2015 on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the memo of grounds filed herein, and upon hearing the arguments of Sri Gandham Bhaskar, Advocate for the Petitioner, the Court made the following.

ORDER:

Heard learned counsel for the defendant in O.S.No.8 of 2015 on the file of III Additional District Judge, Rajampet, Kadapa District, who is the petitioner impugning the docket order of the learned Judge dated 07.04.2015 in ordering attachment directing the garnishee i.e., Bank where security deposit of Rs.11 lakhs lying to attach and by

ordering notice for hearing, suit is filed by respondent Nos.1 and 2 and pending the suit the plaintiffs/respondents sought attachment before judgment and the order passed therein. It is one of the contentions in the petition impugned in the said order in revision, that though Order 38 Rule 6 mandates the show cause notice to furnish security before attachment, such notice given as can be seen from the impugned docket order and without even opportunity to show cause including to furnish security attachment under Order 38 Rule 5 cannot and could not be passed otherwise ignored by the learned Judge in passing the impugned order thereby the same is unsustainable.

There shall be interim stay of enforcement of the order further for five (05) weeks.

Learned counsel for the petitioner is permitted to take out personal notice to respondent Nos.1 and 2 including advocate on record in lower Court by registered post with acknowledgment due and file proof of service within three (03) weeks.

List after four (04) weeks.

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ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The III Additional District Judge, Rajampet, Y.S.R. District
2. Sri Gopalakrishnan, S/o. Subramanian, M/s. Ashapura Minechem Ltd., Regd. Under Companies Act, Having its Office at Jeevan Udyog Building, III Floor, 278, D.N. Road, Fort, Mumbai - 400 001. No.93, Amarnaiah Street, George Town, Chennai - 600 001.
3. The Managing Director, Andhra Pradesh Mineral Development Corporation, Khiratabad, Hyderabad. **(Addressee Nos 2 & 3 by RPAD)**
4. One CC to Sri Gandham Bhaskar, Advocate (OPUC)
5. One spare copy

Skm

HIGH COURT

DR. SSRB,J

Drafted by: skm
Drafted on: 09-10-2015

DATE: 06-10-2015

NOTE: List after four (04) weeks.

ORDER

CRP. No. 4205 of 2015

INTERIM STAY