

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI

COMMERCIAL COURT APPEAL No. 1 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Smt. Manjiri S. Ganu, learned counsel for the appellants, and Sri G. Kalyan Chakravarthy, learned counsel for the respondents, and, with their consent, the appeal is disposed of.

This appeal, under Section 13 of the Commercial Courts Act, is preferred by the respondents in C.O.P. No. 166 of 2017. They are aggrieved by the order passed by the Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad, in C.O.P. No. 166 of 2017 dated 23.6.2017, directing conditional attachment and in calling upon the appellants-respondents to furnish security for Rs. 2,15,76,630/- within 72 hours from the date of service of the notice, failing which the immovable properties, mentioned in the petition, were to be attached.

Smt. Manjiri S. Ganu, learned counsel for the appellants, would submit that the order under appeal does not even record the *prima facie* satisfaction of the Commercial Court that the immovable properties of the appellant necessitates attachment; the respondents-petitioners have not even asserted in their petition that the appellants are likely to take away the property beyond the territorial limits of the Commercial Court or that they would sell the property; even without recording any such finding and without recording any reasons why a conditional attachment order should be passed, the Court below has passed the order under appeal.

While Sri G. Kalyan Chakravarthy, learned counsel for the respondents, would draw our attention to paragraph-18 of the petition wherein it is stated that the respondents-petitioners came to know that the appellants-respondents were trying to secret away their assets in order to escape from their liability, it is wholly unnecessary for us to

examine whether such a plea would suffice for passing an order of conditional attachment as the order under appeal does not even refer to any averments in the petition, much less does it record the *prima facie* satisfaction of the learned Judge that an order of attachment should be passed. We are satisfied, therefore, that the order under appeal must be set aside. We record the submission of Smt. Manjiri S. Ganu, learned counsel for the appellants, that the appellants would not sell the subject property in the meanwhile. The Court below shall consider the request of the respondents-petitioners, for grant of attachment pending C.O.P. No. 166 of 2017, afresh and in accordance with law.

The appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

1st August, 2017

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Date: 01.08.2017

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