

**HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**C.R.P.No.1255 of 2017**

**ORDER:**

Heard Sri T.M.K.Chaitanya, learned counsel for the petitioner and Sri Guddeti Chandra Sekhar, learned counsel for the respondent.

2. Petitioner has filed this Revision Petition challenging the order dt.06-03-2017 passed by the Additional District Judge, Narasapur, under Order 38 Rule 5 CPC in I.A.No.77 of 2017 in O.S.No.7 of 2017 on his file asking the petitioner to furnish security to an amount of Rs.17,64,546/- within 48 hours, failing which the said order directed that the item Nos.1 and 2 of the plaint schedule properties shall be attached before judgment.

2. Learned counsel for the petitioner contends that prior notice is required before attachment and that the time granted of 48 hours is too less.

3. The very purpose of attachment before judgment is to ensure that the property is preserved pending suit and to prevent the defendant from alienating the same. If notice is issued, in many cases, the property which may be available to the plaintiff will be made to disappear by the defendant.

4. The impugned order is in fact an order of conditional attachment which is permitted by Order 38 Rule 5 CPC and the petitioner has the remedy of filing an application under Clause (2) of Order 38 Rule 6 to raise attachment by furnishing sufficient cause

before the Court below. Permitting the petitioner to avail the said remedy, the Civil Revision Petition is dismissed. No costs.

5. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 10-03-2017

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