



CRP(NPD) Nos.248 & 251 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 03.06.2025

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P (NPD) Nos.248 and 251 of 2017

and

C.M.P Nos.1063 and 13834 of 2017

N.Anand

... Petitioner
in both petitions

..Vs.

- 1.Ayyappa Cotton Traders
Rep. by its Proprietor
G.P.Narasimhulu (died)
S/o.Anjappa Setty
Admn.Office: Door No.13/321,
Vedurla Bazaar
Proddatur.
- 2.M/s.Navakkarai Spinners Ltd
(Under Liquidation)
Represented by the Official Liquidator
High Court of Madras
Chennai-600 104.
(R2 was removed vide court order
dated 10.06.2022 made in CRP
No.248 of 2017)
- 3.G.N.Shakunthala
- 4.N.B.Kavitha
- 5.G.N.Sathish Kumar
- 6.Surendara Kumar



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Respondent-1 died. Respondents 3 to 6 were brought on record as LR's of the deceased R1 viz., G.P.Narasimhulu as per the memo dated 14.11.2022 vide court order dated 14.11.2022 made in CRP No.248 & 251 of 2017

... Respondents
in both petitions

Prayer in CRP No.248 of 2017: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the fair and decreetal order passed in E.A No.26 of 2016 in Renumbered E.P No.14 of 2016 (formerly E.P No.168/2013) dated 19.10.2016 passed by the learned V Additional District Judge at Coimbatore.

Prayer in CRP No.251 of 2017: This Civil Revision Petition is filed under Section 115 of CPC, to set aside the fair and decreetal order passed in E.A No.27 of 2016 in Renumbered E.P No.14 of 2016 dated 19.10.2016 passed by the learned V Additional District Judge at Coimbatore.

For Petitioner : Mr.Manoj
for Mr.S.Anand Venkatesh

For Respondents : Mr.G.R.M.Palaniappan



COMMON ORDER

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These two Civil Revision Petitions are filed challenging the fair and decreetal orders dated 19.10.2016 passed in E.A Nos.26 and 27 of 2016 in Renumbered E.P No.14 of 2016 (formerly E.P No.168/2013) passed by the learned V Additional District Judge at Coimbatore.

2. The Civil Revision Petitioner is a Judgment Debtor in E.P No.14 of 2016 on the file of the learned V Additional District Judge at Coimbatore. The 1st respondent had presented O.S No.14 of 2001 on the file of the learned II Additional District Judge, Kadappa at Proddatur, for recovery of money. The suit was decreed by that Court on 27.02.2006. Aggrieved by the same, an appeal was preferred to the High Court of Judicature of Andhra Pradesh at Hyderabad in A.S No.442 of 2006. The said appeal was dismissed. Subsequently, the decree-holder filed an application in E.A No.16 of 2012 on the file of the learned District Judge, Kadappa, seeking transmission of the decree to the file of the Courts in Coimbatore. The learned District Judge was pleased to allow the said application on 06.10.2012. Thereafter, an execution petition was taken on file by the

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learned V Additional District Judge at Coimbatore as E.P No.14 of 2016.

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3. In the said proceedings, the properties which belonged to the respondents were attached. The 2nd respondent herein, filed an application in E.A No.27 of 2016 seeking stay of all further proceedings in the execution petition invoking Order XXI Rule 26 of the Code of Civil Procedure. The plea of the 2nd respondent/petitioner was that the appeal before the High Court of Judicature of Andhra Pradesh had not yet been disposed and hence, the execution petition is unsustainable.

4.The learned Executing Judge after receipt of the counter from the decree-holder dismissed the petition in E.A No.27 of 2016 on 19.10.2016. Challenging the same, C.R.P No.251 of 2017 has been preferred by one Mr.N.Anand. Though E.A No.27 of 2016 was filed by M/s.Navakkarai Spinners Ltd, this revision is preferred by Mr.Anand.

5. An another application came to be presented in E.A No.26 of 2016 invoking Order XXI Rule 55 of the Code of Civil Procedure seeking to raise



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an order of attachment passed by the trial Court. The ground on which the attachment was sought to be raised was that the party had preferred an appeal before the High Court of Judicature of Andhra Pradesh at Hyderabad, and since M/s.Navakkarai Spinners Ltd/2nd respondent had preferred an appeal against the order of winding up in O.S A No.184 of 2012, the order of attachment in the execution petition is required to be raised. In this petition too, the learned trial Judge received a counter and proceeded to dismiss the application. Challenging the dismissal of E.A No.26 of 2016, CRP (NPD) No.248 of 2017 has come before this Court.

6. I heard Mr.Manoj appearing on behalf of Mr.S.Anand Venkatesh for the Civil Revision Petitioner and Mr.G.R.M.Palaniappan, appearing for the respondents.

7. The narration of the facts shows that the 1st respondent has been successful in obtaining a decree as early as 27.02.2006. The appeal, which had been carried by the defendants/judgment-debtors, has also been unsuccessful. The appeal has been dismissed on 19.03.2025. The property



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has been attached by an order of the Court on 11.08.2014. The fact that the company petition that had been initiated against M/s.Navakkarai Spinners Ltd., has lost its relevance on account of the order passed in O.S A No.184 of 2012 on 23.09.2015.

8. A perusal of the order passed in appeal shows that the order of winding up dated 14.07.2000 was set aside. Subsequently, this Court in C.P No.342 of 1998 ordered the winding up of the company again by an order dated 18.08.2016.

9. The judgment passed by the learned District Judge, Kadappa at Proddatur shows that the Civil Revision Petitioner had been arrayed as the 2nd defendant to the suit. The suit has been decreed against the defendants with costs for Rs.34,24,260/-, together with interest at 12% per annum. The decree attained a finality. Once the decree has attained finality, unless and until full satisfaction is recorded, the executing court is duty bound to proceed with the execution and ensure that the decree-holder gets benefits or enjoys the fruits of the decree he obtained. Surprisingly, the Civil



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Revision Petitioner has challenged the order passed against M/s.Navakkarai Spinners Ltd., - the petitioner in E.A No.27 of 2016. The petitioner Mr.Anand was not even a party to the said application.

10. When the basis of the said petition was the pendency of the appeal before the High Court of Judicature of Andhra Pradesh and Original Side appeal pending before this Court does not exist any more, the question of staying the execution petition does not arise. I have already recorded that both the appeals have been disposed of by the respective Courts. Further, to maintain an application under Order XXI Rule 55, any one of clauses (a) to (c) of that provision should be satisfied. That is not the situation in the present case. Hence, the revision deserves dismissal.

11. In the light of the above discussion, I do not find any reason to interfere with the discretionary order passed by the learned executing Judge.



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12. In the result, these two Civil Revision Petitions are dismissed.

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The learned executing Judge/ V Additional District Judge at Coimbatore is directed to proceed as expeditiously as possible and dispose of E.P No.14 of 2016 within a period of three months from the date of receipt of a copy of this order.

13. Whether the decree-holder is entitled to withdraw the amount deposited by the Civil Revision Petitioner pursuant to the interim order of this Court, shall be decided on appropriate cheque application filed by the decree-holder before the trial Court. Consequently, C.M.P No.13834 of 2017 is closed with liberty to move an appropriate withdrawal application before the trial Court and C.M.P No.1063 of 2017 is also closed.

03.06.2025

Index : Yes/No
Internet : Yes
Speaking/Non-speaking order
Neutral Citations:
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To

The V Additional District Judge
Coimbatore.



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V.LAKSHMINARAYANAN,J
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C.R.P (NPD) Nos.248 & 251 of 2017 and

CMP Nos.13834 and 1063 of 2017

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