APHC010246172026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3209]
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

CIVIL REVISION PETITION NO: 1507 OF 2026

Between:

1. OOMEN VARGHESE, S/O VARGHESE, AGED ABOUT 75 YEARS, OCC. BUSINESS, R/O FLAT NO. 14, F2, RAK PRINCETON, RAK PRINCETON, MAROTTHIDCHODU, P.O. EDAPALLY, KOCHI-682024.

...PETITIONER

AND

1. MS/RAK CERAMICS INDIA PVT LTD, REPRESENTED BY ITS EXECUTIVE COMPANY SECRETARY AND LEGAL, DOLLA SIVA GANGADHARA S/O LATE VEERABHADRA RAO, AGED ABOUT 29 YEARS, O/O ADB ROAD, SAMALKOT, KAKINADA DISTRICT (ERSTWHILE EAST GODAVARI DISTRICT)-533440

2. M/S JULPHAR EXAM PVT LTD, (REPRESENTED BY ITS AUTHORISED SIGNATORY, O/AT 33/2402D, THRUNILATH BUILDING, NEAR GITANJALI BUS STOP, H.N-47, BYE PASS, VYTTILA, ERNAKULAM (KOCHI), KERALA-680219.

3. MR PALAYIL VARKEY SOJA, S/O PALAYIL JACOB VARKEY AGED ABOUT 52 YEARS. WHOLE TIME DIRECTOR OF MIS. JULPHAR, EXAM PVT.LTD.. R/O PALAYIL HOUSE, PEECHANIKADU, PULLAYANAM POST, ANAGAMALY, ERNAKULAM DISTRICT, KERALA-683572

4. MR BIJU RAPHEL, S/O RAPHEL PADUVA AUGUSTHV, AGED ABOUT 50 YEARS. WHOLE TIME DIRECTOR OF MIS. JULPHAR,

EXAM PVT.LTD.. R/O PADYVAN KANCHAPPILLY HOUSE, KARAYAMPARAMBU, KARAKUTTA POST, ANGAMALY, ERNAKULAM DISTRICT, KERALA-683572

5. MR JUSTIN PUTHENVEEDJU MATHIAS, S/O ABRHAM MTAHIAS, AGED ABOUT 48 YEARS, WHOLE TIME DIRECTOR OF MIS.JULPHAR, EXAM PVT.LTD.. R/O PUTHENVEEDU HOUSE, THIRUMUDIKKUNNU, KARUKUTTU, EAST POST, THRISSUR DISTRICT, KERALA-680502

6. MR THOMAS GEORGE, S/O GEORGE, AGED ABOUT 55 YEARS, EX-DIRECTOR OF JULPHAR, EXAM PVT.LTD.. R/O FLAT NO.504, P.O.BOX NO. 2315, AL-NAEEM TOWER, CORNICHE, KERALA-680565 (RESPONDENT NO.2 TO 6 ARE NOT NECESSARY PARTIES IN THIS C.R.P)

...RESPONDENT(S):

Counsel for the Petitioner:

1. A K KISHORE REDDY

Counsel for the Respondent(S):

1. POLURI VASU RAGHAVENDRA RAO

The Court made the following ORDER:

Aggrieved by an order dated 05.03.2026 passed in I.A.No.454 of 2024 in I.A.No.94 of 2021 in O.S.No.16 of 2021 on the file of the Court of VI Additional District Judge, Kakinada, the present Civil Revision Petition has been filed.

2) The petitioner is the 5th defendant in the said suit. 1st respondent / plaintiff filed the suit for recovery of an amount of Rs.1,75,59,874/- with interest at the rate of 15% per annum from the date of suit, till the date of realization against the 1st defendant-company and its Directors. In the suit, the 1st respondent / plaintiff filed I.A.No.94 of 2021 under Order 38 Rule 5 of CPC seeking attachment of petition schedule property before judgment. On 23.02.2021, the learned Trial Court passed the following order:

> "Heard. Perused the material placed before this court relied upon by the petitioner ipso facto shows that the respondents are likely to cause delay in the Execution Proceedings in the decree likely to be passed in this suit in which case the petitioner would be put to great hardship to realize the fruits of the decree.
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> Under these circumstances this court deems fit just to direct the respondents to furnish the security of Rs.2,00,00,000/- (Rupees Two Crores only) within 48 hours and issue ad-interim conditional attachment by 22.03.2021."

3) Seeking to raise the said order of attachment, the petitioner filed the above interlocutory application, which came to be dismissed vide impugned order.

4) Heard the learned counsel for the petitioner. Also heard learned counsel for the 1st respondent / plaintiff. Perused the material on record.

5) Learned counsel for the petitioner made submissions *inter alia* to the effect that the learned Trial Court went wrong in dismissing the I.A. in question without considering the matter in the proper perspective. The main contention advanced is that the property which was attached pursuant to the order dated 23.02.2021 is the petitioner's personal property, which was purchased on 29.11.2007, much prior to his becoming a Director of the 2nd respondent company. Further, the petitioner was made as a Director in the 2nd respondent company on 15.09.2009 and relieved from the said position in the year 2019 even before institution of the suit. In such circumstances, he contends that the learned Trial Court on an erroneous consideration of the matter and by applying '*Doctrine of lifting of corporate veil'* rejected the application in question. Further, the conclusion recorded by the learned Trial Court that the acts done by the petitioner when he was Director of the company certainly comes under the liability of the company is contrary to the well settled legal position that Directors of company are not personally liable for the acts of the company. Having rightly opined that it is a matter of enquiry whether the petition schedule property which was attached was purchased from out of the profits generated from the company or not is a matter of fact to be decided during detailed enquiry, the learned Trial

Court erred in not raising the attachment which was ordered without enquiry. He also submits that the learned Trial Court failed to appreciate the position in law with regard to attachment of property before attachment as laid down in ***Raman Tech & Process Engineering Co. and Anr. Vs Solanki Traders***[1]***.*** He also placed reliance on the decision of a Division Bench of High Court of Delhi in ***Sanjiv Kumar Mittal Vs Deputy Commissioner (TRC), CGST Commissionerate, Delhi South & Ors.,***[2] in support of his contention that for the dues of company, personal properties of the Directors cannot be attached. Making the said submissions, learned counsel seeks to allow the Civil Revision Petition.

6) On the other hand, learned arguing counsel Mr.Rayadurgam Bharat, appearing on behalf of 1st respondent made submissions to sustain the order under challenge. He contends that the learned Trial Court had considered the material on record in detail in para No.9 of the Order, assigned cogent reasons for dismissing the I.A. in question. He submits that the well considered order under revision calls for no interference by this Court, that there are no merits in the Civil Revision Petition and the same is, therefore, liable to be dismissed.

7) This Court has considered the submissions made and perused the material on record. On an appreciation of rival contentions, the only point that arises for adjudication is "Whether the Order of the learned Trial

[1] (2008) 2 SCC 302
[2] WP© No.5590/2020 & CM Apl.20200/2020, dt.06.11.2020

Court warrants interference by this Court in exercise of powers under Article 227 of the Constitution of India in the facts and circumstances of the case?"

8) At the outset, it may be appropriate to mention that attachment before judgment under Order 38 Rule 5 of CPC entails serious consequences and the same cannot be ordered unless a strong case is made out. In the order dated 23.02.2021 extracted supra, learned Trial Court had merely recorded that the respondents/defendants are likely to cause delay in the Execution Proceedings in the decree likely to be passed. In ***Raman Tech case*** referred to above, Hon'ble Supreme Court of India in categorical terms held as follows:

> **"5.** The power under Order 38 Rule 5 CPC is a drastic and extraordinary power. Such power should not be exercised mechanically or merely for the asking. It should be used sparingly and strictly in accordance with the Rule. The purpose of Order 38 Rule 5 is not to convert an unsecured debt into a secured debt. Any attempt by a plaintiff to utilise the provisions of Order 38 Rule 5 as a leverage for coercing the defendant to settle the suit claim should be discouraged. Instances are not wanting where bloated and doubtful claims are realised by unscrupulous plaintiffs by obtaining orders of attachment before judgment and forcing the defendants for out-of-court settlements under threat of attachment."

9) Be that as it may. In the present case, even as per the material placed on record, which was appreciated by the learned Trial Court, the property, which was attached stands in the name of petitioner / 5th defendant. In the written statement, petitioner / 5th respondent has taken

a specific plea that he acquired the property attached before judgment on 29.11.2007 even before becoming a Director of 1st defendant company. Even assuming that the property attached was purchased by the petitioner while he was the Director of the 2nd respondent company, in the absence of any plea to the effect that the said property was purchased for the company, the same cannot be proceeded against, much less by attachment of the same. Further, the application of *Doctrine of lifting of corporate veil* in the absence of any specific plea in the counter affidavit and at Interlocutory stage is not tenable. Learned Trial Court erred in pressing the said Doctrine for deciding the application in question. It is settled position in law and as held in ***Sanjiv Kumar Mittal case*** referred to supra, Directors of Company are not jointly liable for the dues of the Company. The company is a distinct juristic entity, separate from its Directors. (See: ***Manjula & Others Vs D.A.Srinivas***[3]). Personal liability of the Directors, if at all, can be established only after a full fledged trial.

10) In the light of the above referred decisions, including the judgment in ***Raman Tech., case*** (1 supra), this Court is of the considered opinion that the order under revision, rejecting the application to raise the attachment is erroneous, suffers from irregular exercise of jurisdiction vested in the Trial Court and legally not sustainable. The point is answered accordingly.

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[3] 2026 INSC 465

11) For the foregoing reasons, the Order under challenge is set aside. I.A.No.454 of 2024 is allowed. Consequently, the order dated 23.02.2021, attaching the property of the petitioner/5th defendant in the suit shall stand raised. Revision Petition is accordingly allowed. No costs.

12) Consequently, Miscellaneous Applications pending, if any, shall stand closed.

NINALA JAYASURYA,J

Date:04.11.2026
Ssv

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

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Ssv