APHC010503072026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3299]**
(Special Original Jurisdiction)

TUESDAY, THE 3rd DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 2709/2026

Between:

1. LAVU RAMA RAO, S/O SUBBAIAH, AGED 79 YEARS, RETD EMPLOYEE,DOOR NO. 57-15-18, STREET NO.1,NEW POSTAL COLONY, PATAMATA, VIJAYAWADA -520010, NTR DISTRICT

...PETITIONER

AND

1. MALLELA OMKAR, S/O LAKSHMAIAH, AGED 56 YEARS, D.NO. 41-20/6-25, POLICE RAMAIAH VEEDHI, BESIDE KALPANA PRINTERS, KRISHNALANKA, VIJAYAWADA-520013.
2. KOTAK MAHINDRA BANK LIMITED, VIJAYAWADA, REP. BY ITS CHIEF MANAGER, D. NO. 6-3-1109/1 /P-2,3RD FLOOR, BHARAT CHAMBERS, RAJBHAVAN ROAD, SOMAJIGUDA, HYDERABAD-500082, TELANGANA CLAIM PETITIONER

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased toprays that the Honble court may be pleased to Allow this revision by setting aside the Order dated 14.07.2026 passed in E.A. No. /2026 G.I_ No. 522 in E.P. No. 73/2017 IN O.S.No.243/2013, on the file of The II Additional District Judge at Vijayawada to register the said petition wherein the petition was rejected and direct the II Additional District Judge at Vijayawada to register the said petition and dispose of the same on merits.

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to stay all further proceedings in E.P. No. 73/2017 in O.S. No. 243/2013 on the file of II Additional District Judge at Vijayawada pending disposal of Civil Revision Petition in the interest of justice and equity pass

Counsel for the Petitioner:

1. D BUTCHI BABU

Counsel for the Respondent(S):

1.

The Court made the following:

ORDER :-

Heard Sri D.Buchi Babu, learned counsel for the petitioner and perused the material on record.

2. The Civil Revision Petition has been filed by the revision petitioner/decree holder, being aggrieved from the order, dated 14.07.2026 passed in E.A.No. /26(G.L.No.522) in E.P.No.73 of 2017 in O.S.No.243 of 2013 on the file of the Court of the learned II Additional District Judge, Vijayawada.

3. For the order proposed to be passed, and having regard to the nature of the grievance raised, issuance of notice to the respondents is dispensed with.

4. The petitioner is the decree-holder in O.S.No.243 of 2013 on the file of the Court of the II Additional District Judge, Vijayawada. He has also filed E.P.No.73 of 2017 seeking execution of the decree dated 30.09.2016, which had attained finality.

5. Respondent No.2-Kotak Mahindra Bank, filed E.A.No.192 of 2019 under Order 21 Rule 58 of the Code of Civil Procedure, 1908, in which, the II Additional District Judge-cum-Metropolitan Sessions Judge, Vijayawada, passed the order dated 26.07.2024, reads as under :

"EA.192/2019 is dismissed holding that EP schedule property shall be sold subject to mortgage in favour of petitioner bank. As per orders dated 19-04-2018 the objections of J.Dr are ovefruled and on filing of sale papers, terms were settled for sale of item No.1 of EP schedule property. Hence, for settlement of terms for resale item No.1 call on 09-08-2024. Mortgagee bank is directed to file the amount for which it is entitled so as to mention the same in proclamation. Call on 09-08-2024. EA.No.193/2019 Since the main E.A.192/2017 is disposed off, this petition is infructuous and dismissed. EA.192/2019 Order pronounced (Vide Separate) in open court. In the result, this petition is dismissed. But the sale of attached EP schedule property shall be subject to the mortgage in favour of petitioner."

6. According to the aforesaid order, E.A.No.192 of 2019 was dismissed, holding that the E.P. schedule property shall be sold subject to the mortgage in favour of the petitioner-bank.

7. Thereafter, the petitioner/decree-holder filed E.A.No. /2026 (unnumbered)(G.L.No.522), praying for issuance of a fresh sale proclamation without the condition that the sale shall be "subject to mortgage", which was rejected by order dated 14.07.2026 on the ground that the request for issuance of a fresh sale proclamation without the condition of the sale being subject to the mortgage, observing that the said condition had already been imposed in E.A.No.192 of 2019, filed under Order 21 Rule 58 CPC, *vide* order dated 26.07.2024.

8. Challenging the order dated 14.07.2026, the present Civil Revision Petition has been filed.

9. Learned counsel for the petitioner submits that the period of limitation for redemption of the mortgage expired on 20.02.2025. Consequently, even if the condition that the sale shall be subject to the mortgage was initially imposed, the same is liable to be removed, and the E.P. schedule property is required to be sold without such condition by issuing a fresh sale proclamation.

10. The learned Execution Court did not find any merit in the said contention. It observed that, if respondent No.1/Judgment Debtor had made any payment towards the debt or executed any acknowledgment of the debt, the period of limitation would automatically stand extended for a further period of twelve (12) years. It was further observed that, if the E.P. schedule property were sold without the condition of being subject to the mortgage, the bank would suffer irreparable loss. Accordingly, the Execution Court declined to relax the said condition.

11. The learned Execution Court further held that the application filed for removal of the aforesaid condition was not maintainable. It observed that, if the petitioner/decree-holder was aggrieved by the condition imposed in the order dated 26.07.2024, he ought to have challenged the said order before

the appropriate forum, instead of seeking its removal by filing an application in the execution proceedings.

12. Having considered the submissions made and the reasons assigned by the learned Execution Court, this Court finds no reason to interfere with the impugned order for the following reasons:

1. *The condition that the E.P. schedule property shall be sold subject to the mortgage was imposed by the order dated 26.07.2024 in E.A.No.192 of 2019. The said order has not been challenged by the petitioner/decree-holder.*
2. *The learned Execution Court has taken a plausible view in rejecting the subsequent application seeking removal of the said condition, particularly when the petitioner/decree-holder had not challenged the original order imposing such condition.*

13. In view of the aforesaid discussion, this Court finds no illegality or infirmity in the impugned order warranting interference in exercise of the supervisory jurisdiction under Article 227 of the Constitution of India.

14. Accordingly, the Civil Revision Petition is ***dismissed***.

15. However, it is made clear that the observations made in the order of the learned Execution Court with regard to respondent Nos.1 and 2 are only *prima-facie* observations at this stage of the execution proceedings.

16. If any objection is raised by filing an appropriate application with regard to the question of limitation, the same shall be considered and decided by the learned Execution Court, after issuing notice to respondent Nos.1 and 2 and affording them an opportunity of hearing.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

Date : 03.11.2026.
RPD.

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

(DISMISSED)

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RPD.