



**\*IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

**\*HONOURABLE SRI JUSTICE M. VENKATA RAMANA**

**+ A.S.No.664 of 2019**

**% Dated:13.11.2019**

Between:

# H.Nirmala,  
W/o. K. Hari Babu,  
R/o. D.No.19-133, Jayaprakash Street,  
Kuppam Town, Chittoor District.

... APPELLANT

AND

\$ 1. C.Padmavathi, W/o. A.S.Mallikarjuna,  
R/o. Door No.14-151/1, Radhakrishna Road,  
Kuppam Town, Chittoor District.

2. S.Venkatamuni (DIED)

3. Smt. Prabhavathi, W/o. V. Krishnappa Naidu,  
R/o. Door No.19-133, Jayaprakash Street,  
Kuppam Tiown, Chittoor District.

... RESPONDENTS

! Counsel for appellant : Mr. KS Gopalakrishnan

^Counsel for Respondents : Mr. S. Lakshminarayana Reddy

<GIST:

>HEAD NOTE:

? Cases referred:

1. AIR 1968 Kant 270
2. AIR 1969 SC 941
3. Legalcrystal.com/62607
4. AIR 1982 SC 989
5. AIR 1978 AP 30
6. AIR 1968 Mysore, 283
7. AIR 1935 (Mad) 365
8. 1994(1) ALT 56 (S.B.)
9. (2005)6 Supreme Court Cases 344



**HON'BLE SRI JUSTICE M.VENKATA RAMANA**

**APPEAL SUIT No.664 of 2019**

**JUDGMENT :**

1. The first respondent is the decree holder in O.S.No.5 of 2012. She levied E.P.No. 7 of 2016 in execution of the decree dated 30.04.2013 passed in the suit against respondents 2 and 3. Mode of execution sought was by sale of E.P.schedule mentioned property under Order-XXI, Rules-64 and 66 CPC. Amount sought to be realised in this execution petition then was Rs.22,71,460/- apart from costs. The property described in the schedule of execution petition is an RCC building bearing Door No.19-19-133 at Kothapet, Kuppam. It was alleged to have had been attached in I.A.No.174 of 2005 in the suit, before judgment.

2. This suit was initially instituted in forma pauperis by the first respondent in POP No.2 of 2005 on the file of vacation Court and a petition under Order-XXXVIII, Rule-5 CPC was filed therein in I.A.No.3 of 2005 seeking attachment of the above property before judgment, wherein an interim conditional attachment was ordered. The property was, in fact, attached by the field assistant of the Court on 08.05.2005. Later the said POP was renumbered as POP No.148 of 2005 on the file of learned Principal District Judge, Chittoor, whereas I.A.No.3 of 2005 was renumbered as I.A.No.174 of 2005.

3. By order dated 05.08.2008, POP No.148 of 2005 was dismissed and the first respondent, who was the petitioner therein, was granted time till 25.08.2008 for payment of court fee. Then, the matter was posted to 25.08.2008 to comply with the above direction. Court fee was not deposited, as directed as per the above order. However, in the year 2012, this POP was renumbered and registered, obviously, upon depositing necessary court fee. An ex parte decree was passed in the suit thereupon, since the respondents 2 and



3 did not choose to contest, on 30.04.2013.

4. I.A.No. 174 of 2005 referred to above was not closed with the termination of the proceedings in POP No.148 of 2005 on 25.08.2008 and it was being called thereafter till 29.08.2008 from which date it was posted to 20.10.2008. Later on, it was not called on the bench nor any further date of posting was given therein in the trial Court.

5. The above are all undisputed facts in this case.

6. The appellant is the daughter-in-law of third respondent. Smt.Vani is the daughter of the third respondent. On 14.10.2009 a gift deed was executed by the third respondent in favour of Smt.Vani, giving away the E.P.schedule property. Thereafter, the appellant had purchased this property for Rs.5,15,000/- (Rupees five lakhs and fifteen thousand only) under registered sale deed dated 19.04.2016 from Smt.Vani and has claimed to be in possession of the same.

7. The appellant filed a claim petition under Order-XXI, Rule-58, r/w. Section 47 CPC basing on the above sale deed, claiming right, title and interest to the above property in E.A.No.19 of 2018 in E.P.No. 7 of 2016 in O.S.No.5 of 2012 on the file of the Court of learned District Judge, Chittoor requesting to raise the attachment effected on 20.05.2005 in I.A.No.174 of 2005.

8. In this claim petition, it was the contention of the appellant that, she came to know about the proceedings relating to pauperism as well as attachment of the petition schedule property, directed before judgment in I.A.No.174 of 2005, and that there was no order of attachment in force on the date when she purchased this property from Smt. Vani on 19.04.2016. Therefore, according to the appellant, the gift deed executed by the third



respondent in favour of Smt.Vani is valid, which enures to her benefit and hence E.P. as brought out for sale of E.P.schedule property could not be maintained nor it binds her. Thus, stating that she has nothing to do with the alleged transaction between respondent No.1 on one hand and the respondent Nos.2 and 3 on the other nor has there been any collusion between her and the third respondent in filing the petition, she requested to accept her claim and allow the petition.

9. The first respondent resisted the claim of the appellant denying all such averments therein including alleged gift in favour of Smt. Vani and purchase of E.P.schedule property by the appellant from her thereafter. The first respondent specifically contended in the counter that the petition in forma pauperis was filed only for exemption from payment of court fee and dismissal of the same with a direction to pay court fee granting time will not render the attachment before judgment of E.P. schedule property, ineffective. According to the first respondent, the moment she paid court fee, when the suit is numbered, the attachment ordered gets revived and thus the attachment so ordered, continued to subsist. She also contended that the claim petition was filed only to protract the proceedings without any legal basis, by the petitioner, who is none other than the daughter-in-law of the third respondent and, therefore, the claim as made can not be sustained.

10. Enquiry was conducted in this petition before the executing court, where the appellant was examined as P.W.1 and Smt. Vani as P.W.2, P.W.3 being the Panchayat Secretary, Kuppam, while relying on Exs.P1 to P5 in support of her version. On behalf of the respondents, the first respondent was examined as R.W.1 and R.W.2 being a third party, while relying on Exs.R1 to R3 in support of her contention.



11. Upon considering such material as well as the contentions of the parties, the executing court dismissed the claim petition, holding that there was no question of raising of attachment in this case in as much as the situation upon dismissal of the petition in forma pauperis is not equivalent to dismissal of the suit for default. It was further observed that neither Order-XXXVIII, Rule 11A(2) stood attracted in this case nor there was determination of attachment in terms of Order- XXXVIII, Rule-9 CPC occurs. Thus observing that the property was conveyed to Smt.Vani by the third respondent knowing full well of the subsisting attachment, which cannot enure to her benefit and, when the property was conveyed by sale in favour of the appellant, it could not have conveyed a better right and title to her.

12. Sri K.S.Gopalakrishnan, learned counsel for the appellant, assailed the order under appeal raising various grounds and mainly contended that the executing court did not realise the consequences of determination of attachment or in respect of application of Order- XXXVIII, Rule 11A(2) CPC. The learned counsel further contended that in given facts and circumstances, when court fee was paid, leisurely, by the first respondent, on the plaint in the year 2012, after her claim of pauperism was rejected in 2008, four years later, question of bar of limitation to enforce the debt under the promissory note against respondents 2 and 3 by the first respondent comes into play. Therefore, learned counsel contends that the order under appeal requires interference.

13. Sri S.Lakshminarayana Reddy, learned counsel for first respondent, supported the order under appeal referring to the nature of claim made by the first respondent against respondents 2 and 3 with reference to attachment before judgment of the E.P.schedule property taken out at the instance of the first respondent, which, in fact, was effected. Learned counsel for first respondent further contended that the attempt of the appellant is nothing but



collusive on the face of it, particularly, when the effect of Ex.P1 and Ex.P2 is taken into consideration, and also the close relationship among the parties. Contending that the executing court has taken into consideration all the facts and circumstances available on record in proper perspective, it is requested not to interfere with the order under appeal.

14. Now the point for determination is- "*Whether there was determination of attachment, upon dismissal of POP 148 of 2005, as ordered in I.A.No.174 of 2005 and the claim of the appellant in respect of E.P. schedule property, in the circumstances, is justified?*"

**POINT:-**

15. In terms of Order-XXXIII, Rule-1 CPC, when an application is presented to sue in forma pauperis, a suit commences. For benefit, it is desirable to extract Order-XXXIII, Rule-1 hereunder. It reads:

**1. Suits may be instituted by indigent person**

Subject to the following provisions, any suit may be instituted by an indigent person

*Explanation 1:* A person is an indigent person, —

- (a) If he is not possession of sufficient means (other than property exempt from attachment in execution of a decree and the subject matter of the suit) to enable him to pay the fee prescribed by law for the plaint in such suit, or
- (b) where no such fee is prescribed, if he is not entitled to property worth one thousand rupees other than the property exempt from attachment in execution of a decree, and the subject matter of the suit.

*Explanation II:* Any property which is acquired by a person after the presentation of his application for permission to sue as an indigent person, and before the decision of the application, shall be taken into account in considering the question whether or not the application is an indigent person.

*Explanation III:* Where the plaintiff sues in a representative capacity, the question whether he is an indigent person shall be determined with reference to the means possessed by him in such capacity.



16. It is one of the special kinds of suits, prescribed in the scheme of CPC to meet the needs of an indigent, who is unable to pay court fee. Thus, it enables an indigent person to institute a suit without paying the requisite court fee at the initial stage.

17. In order to appreciate its nature, a reference to Rule-2 of Order-XXXIII CPC shall be made. It provides for contents of the application and particularly that an application of this nature, shall have all particulars required in regard to pleadings in a suit including schedules of the property. Therefore, when nature of application filed under Order-XXXIII, Rule-1 CPC, r/w. Rule-2 of Order XXXIII CPC is considered, when claim of the applicant to declare him as an indigent stands rejected and when he is directed to deposit the court fee payable on such application, all the related provisions of CPC shall certainly apply. They are the consequences follow, thereupon.

18. Explaining the nature of application filed under Order-XXXIII, Rule-1 CPC, Sri K.S.Gopalakrishnan, learned counsel for appellant, relied on **Ramappa Parappa Khot and others vs. Gourwa**<sup>1</sup> where the trappings of such an application as a suit were considered. Reliance was placed in this ruling in Stuart Skinner v. William Orde ((1876-80)6 Ind App 126 (PC)). And observing that the opinion so expressed in this decision of Judicial Committee was accepted by Hon'ble Supreme Court in **Vijay Pratap Singh vs. Dukh Haran Nath Singh and another**<sup>2</sup>. The Hon'ble Supreme Court, in this context, observed:

“An application to sue in forma pauperis, is but a method prescribed by

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<sup>1</sup>. AIR 1968 Kant 270

<sup>2</sup>.AIR 1969 SC 941



the Code for institution of a suit by a pauper without payment of fee prescribed by the Court Fees Act. If the claim made by the application that he is a pauper is not established the application may fail. But there is nothing personal in such an application. The suit commences from the moment an application for permission to sue in forma pauperis as required by O.33 of the Code of Civil Procedure is presented, and O.1, r.10, of the Code of Civil Procedure would be as much applicable in such a suit as in a suit in which court fee had been duly paid.”

19. The first respondent choose to file I.A.No.6 of 2012 in POP 148 OF 2005, obviously, under Sections 148 and 149 CPC in the trial Court. It was allowed on 19.01.2012 condoning a delay of 1092 days in representation of the plaint. Consequently, the suit was numbered on 19.01.2012. A copy of the decree made available on first respondent in this appeal reflected this situation. Thus, at that stage, upon depositing the court fee, this matter got metamorphised into a suit.

20. Therefore, nearly for four years, court fee was not paid. Consequences of non-payment of court fee are governed by Order-VII, rule 11(c) CPC. It provides for rejection of plaint, when the court fee is not supplied or deposited within the time fixed by the Court. Therefore, in the context of this case, when the first respondent did not deposit or supply the court fee by 25.08.2018, in terms of scheme of CPC, the consequence to follow is, rejection of the plaint.

21. But, there is no specific order in POP No.148 of 2005 to that effect. It appears, the matter remained in the same status without getting this POP closed. This situation is also explicit from the contents of the decree in the suit referred to above.

22. The first respondent (J.Dr.1) and the second respondent (J.D.2) appeared on 20.05.2005 through their Advocates in POP 148 of 2005 and sought time for filing counters. When the matter was posted on 25.05.2005, counters were filed on their behalf and thereafter the matter was posted for enquiry. As seen from the docket notings, a copy of which is made available on behalf of the appellant





as well as the first respondent in this appeal; I.A.No.174 of 2005 was continued upto 29.08.2008, earlier to which it was also posted on 05.08.2008. It was expected to be called on 20.10.2008. Thereafter the docket entries did not continue in this petition. It remained dormant.

23. It is this situation, the first respondent has taken advantage of, to contend that no specific order was passed in I.A.No.174 of 2005 either raising the attachment so effected before judgment or terminating the proceedings along with the order in POP on 05.08.2008 or subsequently on 25.08.2008. Thus, it is the contention of the first respondent that the attachment ordered of the petition schedule property remained intact, without being dissolved or nullified. On such basis, the first respondent initiated execution proceedings basing on the *ex parte* decree passed dated 30.04.2013 in the suit preferring the mode of execution under Order-XXI, Rules 64 and 66 by sale of the petition schedule property.

24. Order-XXXVIII, Rules 5 to 7 CPC refer to nature of orders to be passed, including calling for security when attachment before judgment is directed. Rule-9 of this Order also speaks of removal of attachment when the security is furnished or when the suit is dismissed. Rule-11A of Order-XXXVIII CPC enables to apply the provisions of attachment of properties made in execution of the decree insofar as they are applicable and which continue after the judgment in view of Rule-11 of Order XXXVIII CPC. Rule-11A(2) of Order XXXVIII CPC bears significance in this context and it reads as under:

**Or.11A (2) or Order XXXVIII**

11A. Provisions application to attachment

- (1) .....
- (2) An attachment made before judgment in a suit which is dismissed for default shall not become revived merely by reason of the fact that the order for the dismissal of the suit for default has been set aside and the suit has been restored.



25. Effect of this provision is that when the suit is dismissed for default, an attachment made shall not get revived merely for the reason that the order of dismissal of the suit is set aside and since the suit has been restored. Rule-11A of Order-XXXVIII CPC, has come into effect on 01.02.1977 by virtue of amendment Act of CPC i.e. Act 104 of 1976.

26. Effect of the same was considered by Kerala High court in **V.Gopi Vs. Dr. Bhaskaran**<sup>3</sup> in its judgment in OP (C) No.3205 of 2013 dated 05.08.2015. In this ruling, learned Judge referred and considered application of ruling of Hon'ble Supreme Court in **Sardar Govindrao Mahadik and another v. Devi Sahai and others**<sup>4</sup>. In Para 16 of the ruling of Kerala High Court, certain extracts from the Judgment of Supreme Court are drawn and they are as under:

16. .... In fact a dismissal of the suit may terminate the provision in Sub-rule(2) of R.11-A of O.38, C.P.C. which provides that attachment before judgment in a suit which is dismissed for default shall not be revived merely because by reason of the fact that the order for the dismissal of the suit for default has been set aside and the suit has been restored.

Observations are also recorded in Para-17 of the ruling of Kerala High Court in this context referring to application of Order-XXXVIII, Rule-11A CPC and Order-XXI, Rule-57 CPC relating to determination of attachment. It is desirable to extract this passage from Para-17 in this respect and it is as under:

17. I have gone through the reasons for change made by CP.C. Amendment Act 104 of 1976 while adding Rule 11A to Order XXXVIII of the Code. Clause (1) in Rule 11A specifically states that the provisions of this Code applicable to an attachment made in execution of a decree shall, so far as may be, apply to an attachment made before judgment which continues after judgment by virtue of

<sup>3</sup>. Legalcrystal.com/62607

<sup>4</sup>.AIR 1982 SC 989



Rule 11. The Legislature expressed the following reasons for the change: “Sub-rule (1) of new rule 11-A is intended to clarify the position as to whether the provisions of Order XXI, rule 57, apply to attachment made before judgment. The provision has been framed in general terms as it would not be appropriate to apply only the provisions of rule 57 of Order XXI. Sub-rule (2) of new rule 11-A clarifies that an attachment before judgment made in a suit which was dismissed for default will not become revived on the restoration of the suit.” From the above passage, it is clear that Rule 11A is added to Order XXXVIII of the code with an intention to clarify that it is in general terms and not only the provision in Order XXI Rule 57 of the Code, but other provisions also, if found applicable, could be applied to an attachment made under Order XXXVIII of the Coe. It is further clear that the statement of law in Order XXI Rule 57 of the Code this angle also, it can only be held that the order of attachment will not survive the dismissal of a suit on merit. Going by the principles in *Sardar Govindrao Mahadik’s* case, it is definite that reversal of a decree in appeal will not revive the order of attachment, which ceased to be in force on the dismissal of the suit.

27. Order-XXI, Rule-57 CPC reads as under:-

**57. Determination of attachment**

(1) Where any property has been attached in execution of a decree and the court, for any reason, passes an order dismissing the application for execution of the decree, the court shall direct whether the attachment shall continue or cease and shall also indicate the period up to which such attachment shall continue or the date on which such attachment shall cease.

(2) If the court omits to give such direction, the attachment shall be deemed to have ceased.

28. Effect of the same, particularly, in the context of this case, when there is no direction by the Court to the effect that attachment continued or upto a particular period to subsist or to cease is that it shall be deemed that the attachment stood ceased.

29. As already stated, in I.A.No.174 of 2005, the docket notings reflected that the matter continued upto 20.10.2008. Thereafter, no order as such, of the nature contemplated by Order-XXI, Rule-57 CPC was passed by the trial Court.

30. In the context of this situation and as was considered by the Hon’ble Supreme Court in *Sardar Govindrao Mahadik’s* case referred to above, reliance placed on behalf of the first respondent in ***Nandipati Rami Reddi and others***



**v. Nandipati Padma Reddy and others**<sup>5</sup>, **Shivaraya and others v. Sharnappa and others**<sup>6</sup>, can have no application. These two judgments also referred the judgment of Madras High Court in **Thavvala Veeraswami v/s Pulim Ramanna**<sup>7</sup>. The situation considered in all these rulings is with reference to revival of orders on Interlocutory Applications relating to incidental proceedings in a suit.

31. It should be noted that they all considered the situation prior to 1976. **In K.Era Reddy and another vs. K.Bal Reddy (died) and others**<sup>8</sup>, basing on *Nandipati Rami Reddi's* case referred to supra, revival of incidental proceedings when the suit is restored was upheld. Reference to incidental proceedings in general, cannot enure to the benefit of the 1sdt respondent, when, revival or otherwise of an attachment before judgment, when the suit is dismissed was not a specific issue.

32. All these rulings can have no bearing now, in as much as the factual context in this case presented a different situation. These rulings did not consider the effect of continuation of attachment before judgment of any property once the suit is dismissed and later on when the suit is restored. There was no occasion to consider the effect of Order-XXXVIII, Rule-11A(2) CPC and also effect of Order-XXI, Rule-57 CPC.

33. The effect of failure to comply with the direction of the trial court to deposit the requisite court fee by 25.08.2008 is that, the petition (POP) presented, which was in the form of plaint in terms of Order-XXXIII, Rule-1 CPC, stood rejected, in view of Order-VII, Rule-11(c) CPC. Thereby, the inference to draw is that there was no such application pending before the trial Court and that, by then the matter had come to an end. Merely because

<sup>5</sup> . AIR 1978 AP 30

<sup>6</sup> . AIR 1968 Mysore, 283

<sup>7</sup> . AIR 1935 (Mad) 365

<sup>8</sup> .1994(1) ALT 56 (S.B.)



I.A.No.174 of 2005 was not closed nor it had any docket notings or order recording either as to continuation of order of attachment before judgment or its cessation, it cannot be stated that the orders so passed therein continued. The first respondent cannot have advantage of certain ministerial mistakes or omissions that went on in the trial court in this context.

34. When these circumstances are taken into consideration, further inference to be drawn is that on the date when the petition presented in forma pauperis came to an end without any further proceedings by 25.08.2008, when it is deemed that the matter stood disposed of considering it as a rejection of plaint in terms of Order-VII,Rule-11(c) CPC, order of attachment before judgment cannot be deemed to survive thereafter.

35. Merely because the first respondent had chosen to deposit the requisite court fee, almost four years later in the trial court, filing I.A.No.6 of 2012, which was allowed on 19.01.2012, it cannot be deemed that the order of attachment before judgment virtually continued on account of the registration of the suit on the same day.

36. As rightly contended for the appellant, once the first respondent failed to deposit required court fee as directed by the trial court, neither the respondents 2 and 3 nor can the appellant be expected to wait for certain events to happen in future. Such events, as rightly contended, are indefinite in nature with attached uncertainty. A party to the litigation, in these circumstances, cannot be made to face a situation in limbo for indeterminate period.

37. Viewed from such perspective, when the third respondent had executed a gift deed under Ex.P1 on 14.10.2009 in favour of her daughter Smt.Vani, it cannot be stated that order of attachment before judgment referred to above made this gift deed a void transaction. By 14.10.2009, in view of what is stated



above, there was no attachment subsisting of the petition schedule property. When Smt.Vani sold the petition schedule property to the appellant under original of Ex.P2 on 19.04.2010, such sale transaction has not been affected as a sequel. These parties can never be deemed nor can be expected to visualize that, four years after the order passed by the trial Court of rejection of pauper petition, the first respondent would make an effort to get the matter revived. It is also not known whether these parties i.e. respondents 2 and 3 had any notice of the application filed in I.A.No.6 of 2012 in the trial court, before it was allowed on 19.01.2012. In these circumstances, it is not open for the first respondent to contend that all the above transactions are collusive amongst the same family members and that they were brought into existence to defeat her claim under the decree or under the suit transaction.

38. Learned trial judge in para-14 of the order under appeal considered the objections raised on behalf of the appellant as mere technical grounds without considering their substantive effect. The reasons so assigned, in the backdrop of the situation and the legal position as has been drawn, now, cannot be appreciated nor can be supported.

39. Therefore, in the facts and circumstances it has to be held that rejection of pauper petition on failure to comply with the directions of the trial Court therein within the time stipulated, amounted to rejection of plaint. Thereby, attachment ordered in I.A.No.174 of 2005 therein neither stood continued nor revived upon registration of the suit in the year 2012.

40. The first respondent cannot take advantage her own lapse or rather laxity and file an execution petition in the Court below requesting sale of the petition schedule property in terms of Order-XXI, Rules-64 and 66 CPC, three years after passing of the decree. By then several transactions had taken place in between, including the one covered by Ex.P1. Thus, the transfer of



ownership of the E.P.schedule property from the third respondent took place and in favour of her daughter, which, later on, in the year 2016, was transferred in favour of the appellant conferring absolute right, title and interest. The fact that she holds the right, title and interest of the property is also confirmed by the evidence of P.W.3, the panchayat Secretary of Kuppam, who deposed with reference to records and also as to transfer of ownership in the concerned registers of his office.

41. One of the contentions on behalf of the first respondent is that request of the appellant to raise attachment itself indicates an admission on her part that the attachment before judgment so ordered is subsisting and therefore her contention now, cannot be considered.

42. Nature of relief to be sought in terms of Order-XXI, Rule-58 CPC is to raise objection to the attachment, if any. It is also open for such an applicant to contend that no such attachment subsists. Therefore, in terms of Order-XXI, Rule-58 CPC, when such an applicant was made by the appellant to adjudicate her claim as to right, title and interest to the EP schedule property, this contention of the first respondent cannot stand.

43. A contention is also advanced on behalf of the appellant as to bar of limitation for the first respondent to continue the suit against the respondents 2 and 3. Since the appellant being a third party to the suit proceedings, it is not open for her to raise such contention nor can she take advantage of Section 3 of the Limitation Act.

44. Sri S. Lakshminarayana Reddy, learned counsel for first respondent, attempted to invoke Section 64 of CPC, questioning Ex.P1 sale transaction to hold the same void, in view of subsisting attachment of petition schedule property by that date. Reliance is placed in this context on the observations of Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamilnad v.**



**Union of India**<sup>9</sup>. The fact situation in this case cannot lead to apply Section 64 CPC. Reasons are assigned already that the sale covered by Ex.P1 took place when there was no subsistence of attachment before judgment of the EP schedule property and therefore the sale covered by Ex.P1, cannot be deemed void.

45. Thus, on careful consideration of the entire material, it has to be held that the objection as to attachment raised by the appellant of the EP schedule property is valid and it shall be upheld. Therefore, the first respondent cannot bring E.P.schedule property for sale in the execution petition. Accordingly, the point is held.

46. In the result, this appeal is allowed. Consequently, the order of learned Principal District Judge, Chittoor in E.A.No.19 of 2018 in E.P.No.7 of 2010 in O.S.No. 5 of 2012, dated 26.08.2019, is set aside. Pending petitions, if any, shall stand closed.

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**JUSTICE M.VENKATA RAMANA**

**Dt: 13-11-2019**  
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<sup>9</sup>. (2005)6 Supreme Court Cases 344





**HON'BLE SRI JUSTICE M.VENKATA RAMANA**

**APPEAL SUIT No.664 of 2019**

**DATED: 13-11-2019**

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