

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR
CIVIL REVISION PETITION Nos. 91 of 2010 AND 6063 of 2009

DATE: 30th June, 2011

C.R.P.No.91 of 2010

Between:

I. Linganna

... Revision Petitioner / Respondent

And

L. Ramulu

... Respondent / Petitioner

-

C.R.P.No.6063 of 2009

Between:

I. Linganna

... Revision Petitioner / Respondent

And

Illu Ramesh

... Respondent / Petitioner

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR
CIVIL REVISION PETITION Nos. 91 of 2010 AND 6063 of 2009

-

COMMON ORDER:

After hearing learned counsel for the petitioner, these matters were listed to today as learned counsel for the respondent was not available yesterday. Even today, there is no representation for the respondent.

The revision petitions are filed against order of attachment before judgment passed by the trial Court. The main grievance of the

petitioner is that the order of attachment is in violation of Order 38 Rule 5 Sub-clause 4. The counsel for the petitioner submits that even if the respondent herein has fulfilled the ingredients of the Order 38 Rule 5 CPC, the Court below could have directed security to be furnished first and only on failure thereof, further orders could have been passed. However, the impugned order puts the sequence the other way round by directing attachment in the first instance and later option for providing security, and only thereafter the said attachment would stand raised. Under orders of this Court dated 18.12.2009, interim suspension was passed in CRP No.6063 of 2009 and similarly, in CRP No.91 of 2010, a similar order was passed on 01.02.2010. The said suspension order in both the CRPs, continues even as on today.

In the circumstances, I deem it appropriate to dispose of both the CRPs by directing the Court below to hear and decide the applications I.A.No.167 of 2009 in O.S.No.264 of 2009 which is subject matter of CRP No.91 of 2010, and I.A.No.255 of 2008 in O.S.No.228 of 2008 which is subject matter of CRP No.6063 of 2009, by duly considering the petition and counter filed by the respondent and the petitioner respectively. The learned counsel for the petitioner states that he is not sure about filing of counter in I.A.No.255 of 2008, in which case, he shall have liberty to file counter within two weeks. The suspension granted by this Court will continue to operate till the trial Court in the respective suits passes final orders in the respective interlocutory applications. All contentions of both sides left open for trial Court to consider.

Accordingly, the Civil Revision Petitions are disposed of.

VILAS V. AFZULPURKAR, J

30th June, 2011

KSM

