

[3418]

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE TWENTY SECOND DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CIVIL REVISION PETITION NO: 3020 OF 2024

Petition under Article 227 constitution of India aggrieved by the Order dated 9/09/2024 in I.A.NO. 479 OF 2024 IN C.O.S.NO. 28 OF 2024 on the file of the Court of the PRINCIPAL SPECIAL COURT IN THE CADRE OF DISTRICT JUDGE FOR TRIAL AND DISPOSAL OF COMMERCIAL DISPUTES, at HYDERABAD.

Between:

M/s Capital Hotel, Rep. by Mirza Taher Ahmed Baig (proprietor) S/o Mirza Ahmed BAid, age. 75 years, Occ. Business, R/o H.No 16-2-741/D/7/8, near TV tower, Asmangadh, Malakpet, Hyderabad.

...PETITIONER/DEFENDANT

AND

1. M/s Northland Amritsar world, A registered firm bearing no. 3111/2011, Rep. by its partner Mr. Mohammed Meraj Khan S/o Md.Rahmath khan, age 38 years, Occ. Business, R/o H.No 23-1-98/3, Kotla Alijah, Hyderabad
2. Mr. Mohammed MerajKhan, S/o.Md. RahmathKhan, Age 38 years, occ. Business, R/o.H.no 23-1-98/3, kotlaalijah, Hyderabad
3. Mr. Mohammedmajid khan, s/o md.Rahmath khan, age 38 years, occ. business, R/o H.No 23-1-98/3, kotlaalijah, Hyderabad
4. Mrs. Zakera begum, w/o Md.Rahmath Khan, age 62 years, occ. Business, R/o H.No 23-1-98/3, kotlaalijah, Hyderabad x
5. Miss. Qudsia begum, D/o md.Rahmath khan, age 38 years, occ.. business, R/o H.No 23-1-98/3, kotlaalijah, Hyderabad

...RESPONDENTS/PLAINTIFF No. 1 to 5

IA NO: 1 OF 2024

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 to suspend the order passed in I.A.NO. 479 OF 2024 IN C.O.S.NO. 28 OF 2024 dated 09.09.2024 passed by the PRINCIPAL SPECIAL COURT IN THE CADRE OF DISTRICT JUDGE FOR TRIAL AND DISPOSAL OF COMMERCIAL DISPUTES, at HYDERABAD, pending disposal of the Revision Petition.

**Counsel for the Petitioner : Mr. Arunn MARRIPEDDI representing
Mr. Manoj Maharaj Ganji**

Counsel for the Respondents : Mr. Mirza Safiulla Baig

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

CIVIL REVISION PETITION No. 3020 of 2024

ORDER: (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. Arunn Marripeddi, learned counsel appears for Mr. Manoj Maharaj Ganji, learned counsel for the petitioner.

Mr. Mirza Safiulla Baig, learned counsel appears for respondent Nos.1 to 5.

2. In this Civil Revision Petition under Article 227 of the Constitution of India, the petitioner has assailed the validity of the order dated 09.09.2024 passed by the Principal Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes, Hyderabad (hereinafter referred to as 'the Commercial Court') by which the application preferred respondent No.1 under Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), has been disposed of.

3. Facts giving rise to filing of this Civil Revision Petition briefly stated are that respondent No.1 had filed a suit for

recovery of a sum of Rs.1,03,08,370/- from the petitioner on the ground that respondent No.1 had supplied Basumati rice to the petitioner and the petitioner did not pay the price of the aforesaid rice. Along with the plaint, an application under Order XXXVIII Rule 5 of CPC for attachment of the property of the petitioner was filed on the ground that the petitioner after filing the suit is trying to alienate the suit schedule property in favour of the third parties.

4. The petitioner filed a reply wherein it was stated that there is no written agreement between the parties for supply of Basumati rice and the supply made was not in accordance with the specifications. It is further submitted that M/s.Niagara Hotel is a necessary party to the suit and the same has not been arrayed as a party to the suit.

5. The Commercial Court by an order dated 09.09.2024, allowed the application preferred by respondent No.1 under Order XXXVIII Rule 5 of CPC and directed the petitioner to furnish security for an amount of Rs.1,03,08,370/- within one week, failing which, it was directed that the suit schedule

property shall stand attached. Hence, this Civil Revision Petition.

6. Learned counsel for the petitioner submitted that the Commercial Court ought to have appreciated that M/s.Niagara Hotel was a necessary party and various pleas urged by the petitioner were not considered by the Commercial Court.

7. We have considered the submissions made by the learned counsel for the petitioner and perused the record.

8. Respondent No.1 in support of the plea that the petitioner owes the amount to it has annexed the copy of the ledger statement, cash invoices, bills of supply and waybills. From the aforesaid documents, it is evident that respondent No.1 had supplied Basumati rice to the petitioner. The Commercial Court has further held that primary object of the attachment before judgment is to prevent any attempt on the part of a party to defeat the realization of the decree that may be passed against him. The Commercial Court therefore has directed the petitioner to furnish the security for the amount in question failing which it has been directed that the suit

schedule property shall stand attached. The order passed by the Commercial Court has been passed on sound principles of law and the same neither suffers from any jurisdictional infirmity nor any error apparent on the face of the record warranting interference of this Court in exercise of powers under Article 227 of the Constitution of India.

9. In the result, the Civil Revision Petition fails and is hereby dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

//TRUE COPY//

Sd/- A.V.S. PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The PRINCIPAL SPECIAL COURT IN THE CADRE OF DISTRICT JUDGE FOR TRIAL AND DISPOSAL OF COMMERCIAL DISPUTES, at HYDERABAD.
2. One CC to Mr. Manoj Maharaj Ganji, Advocate [OPUC]
3. One CC to Mr. Mirza Safiulla Baig, Advocate [OPUC]
4. Two CD Ccopies

DL/kam

Jcp

HIGH COURT

DATED:22/10/2024



ORDER

CRP.No.3020 of 2024

DISMISSING THE C.R.P.

6 Copies
3/12/24