

**\* THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**CIVIL REVISION PETITION NO.1095 OF 2026**

% 01.05.2026

# M/s. V.Digitals & 2 others

.....petitioners

And:

\$ M/s. Baba Flex

.... respondent

!Counsel for the petitioner : Sri P.S.P.Suresh Kumar

^Counsel for the respondents :

<Gist:

>Head Note:

? Cases referred:

1. (2008) 2 SCC 302

**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

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**CIVIL REVISION PETITION NO.1095 OF 2026**

**Between:**

M/s. V.Digitals & 2 others

..... PETITIONERS

**AND**

M/s. Baba Flex

....RESPONDENT

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

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RAVI NATH TILHARI,J**

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI****CIVIL REVISION PETITION NO: 1095/2026****ORDER:**

Heard Sri P.S.P.Suresh Kumar, learned counsel for the petitioners.

2. The defendants are the petitioners in O.S.No.57 of 2026 pending in the Court of XII Additional District Judge, Visakhapatnam.

3. In the suit the plaintiff filed an application for attachment of the property of the defendants and in the said application a show cause notice has been issued under Order 38 Rule 5 of CPC to the petitioners to furnish the security for the suit amount within a specified period, failing which it was provided to attach the petition schedule property which stands in the name of 2<sup>nd</sup> defendant.

4. Challenging the said notice, the present CRP has been filed under Article 227 of the Constitution of India.

5. Learned counsel for the petitioner submits that the power and the jurisdiction under Order 38 Rule 5 cannot be exercised mechanically. In his submission the impugned notice has been issued mechanically.

6. Order 38 Rule 5 of CPC reads as under:

**“5. Where defendant may be called upon to furnish security for production of property.—**(1) Where, at any stage of a suit, the Court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court, the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(3) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

(4) If an order of attachment is made without complying with the provisions of sub-rule (1) of this rule, such attachment shall be void.”

7. In ***Raman Tech. & Process Engg. Co. v. Solanki Traders***<sup>1</sup> upon which learned counsel for the petitioner placed reliance, the Hon’ble Apex Court held as under:

“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.”

8. There is no dispute on the settled legal position as in ***Raman Tech. & Process Engg. Co.*** (supra) but here only the notice has been issued to the petitioners, so, this Court is of the view that the petitioners have the

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<sup>1</sup> (2008) 2 SCC 302

opportunity to file the objections and may also place reliance on the judgment in ***Raman Tech. & Process Engg. Co.*** (supra) before the learned Trial Court.

9. Approaching directly to this Court under Article 227 of Constitution of India without availing the statutory remedy available under Order 38 Rule 5 CPC shall not be encouraged by-passing the remedy under CPC. So, this Court is not inclined to entertain the Civil Revision Petition under Article 227 of Constitution of India. It is settled in law that the jurisdiction under Article 227 of Constitution of India is a supervisory jurisdiction which is not to be invoked in a routine manner but only in exceptional circumstances.

10. If the petitioner files the objection pursuant to the impugned notice, learned Trial Court is expected to consider the same in accordance with law, with due opportunity to the concerned parties expeditiously.

11. The Civil Revision Petition is dismissed with the aforesaid observations.

No order as to costs.

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

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**RAVI NATH TILHARI, J**

Dated: 01.05.2026  
Note: L.R. copy be marked  
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AG

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

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