

Where a decree-holder seeks attachment of a debt or bank account not in the possession of the judgment-debtor, Order XXI Rule 46 CPC empowers the executing court to attach such property by a written prohibitory order directed to the person in possession, and Order XXI Rule 46A CPC operates only after such attachment

The **High Court of Telangana at Hyderabad Bench** in the case of **Union of India vs Krishnapatnam Railway Company Limited [Commercial Court Appeal No.7 OF 2026]** dated April 10, 2026, has held that where a decree-holder seeks attachment of a debt or bank account not in the possession of the judgment-debtor, Order XXI Rule 46 CPC empowers the executing court to attach such property by a written prohibitory order directed to the person in possession, and Order XXI Rule 46A CPC operates only after such attachment.

Further, the issuance of notice to the garnishee under Rule 46A is not mandatory and, in any event, becomes unnecessary where the garnishee has already complied with the attachment order and does not dispute liability. Accordingly, a challenge to the attachment on the ground of non-compliance with Rule 46A is unsustainable in such circumstances, added the Court.

The High Court held that exemptions under the proviso to Section 60(1) CPC attach only to specified amounts falling within the exempted categories and not to the entirety of a bank account; the burden lies on the judgment-debtor claiming exemption to furnish specific particulars and cogent material identifying the nature, quantum, and extent of the exempt sums. In the absence of such particulars, the executing court is justified in rejecting the claim for exemption from attachment.

The Court also explained that objections of this nature are not maintainable under Section 47 CPC unless they go to the executability of the decree on the ground that the decree is void ab initio or a nullity. Since the arbitral award had become enforceable and no stay was pressed, the appellant's objections to the attachment order lacked statutory basis and could not be used to obstruct execution.

The High Court observed that the burden of proof lies squarely on the party seeking to avail the benefit of the exemptions under the proviso to Section 60(1) CPC, namely, the appellant/judgment-debtor, to establish that the property is not liable to attachment or sale. The Court found that the appellant had failed to furnish any particulars regarding the nature of the property, the specific exempt amounts, their quantum, or their proportion in the overall treasury account balance.

The Court observed that the proviso to Section 60(1) CPC carves out exceptions from attachment in respect of "the following particulars," indicating that only certain specified amounts are immune from attachment, as opposed to the entire account itself. The appellant, however, sought to invoke the statutory exemption in respect of the entirety of the treasury account without segregating or identifying the protected sums.

On the objection concerning Order XXI Rules 46 and 46A CPC, the Court carefully distinguished the two provisions and set out the statutory sequence. It held that Rule 46 empowers the executing court to attach a debt, share or other property not in the possession

of the judgment-debtor by a written prohibitory order directed to the person in possession of the property, whereas Rule 46A applies after attachment under Rule 46 and enables the Court, on the application of the attaching creditor, to issue notice to the garnishee either to pay the debt to court or to appear and show cause.

The Court observed that, in the present case, once the garnishee bank filed a memo stating that it had complied with the attachment order and had withheld/stopped transactions in the account, proceedings under Order XXI Rule 46A became unnecessary and irrelevant. Since the garnishee in the present case did not dispute liability and confirmed compliance with the attachment order, the appellant's challenge founded on non-compliance with Rule 46A was held to be without factual or statutory basis.

In relation to Section 47 CPC, the Court held that the objections raised by the appellant did not fall within the scope of that provision. Section 47(1) requires that all questions between the parties relating to execution, discharge or satisfaction of the decree shall be determined by the executing court, but the executing court cannot examine the validity of a subsequent order.