

APHC010017452023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

THURSDAY, THE TWENTY THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION Nos: 93, 951, 986 and 971 of 2023

C.R.P.No.93 of 2023

Between:

1. PAMUJALA VIJAYA LAKSHMI, W/O. PAMUJALA NAGESWARA RAO,
HINDU, AGED ABOUT 58 YEARS, R/O. 25-11/669-A, POLICE
COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DIST

...PETITIONER

AND

1. PUCHALAPALLI RAGHURAMI REDDY, S/O. POLI REDDY, HINDU,
ADVOCATE AGED 59 YEARS, D. NO. 23/1200/23, RD LANE,
SODHAN NAGAR, NELLORE CITY

2. PANTA SUBBA REDDY, S/O. LATE RAMI REDDY, HINDU, AGED
ABOUT 74 YEARS, R/O. HOUSING BOARD COLONY,
KALLURUPALLI, NELLORE CITY

3. PAMUJALA SURESH CHANDRA, S/O. NAGESWARA RAO, HINDU,
AGED ABOUT 39 YEARS, R/O. 25-11/669-A, POLICE COLONY,
DARGA MITTA, NELLORE TOWN, NELLORE DIST.

4. PONARI VENKATA RAO, S/O. DANDASI, HINDU, AGED ABOUT 54
YEARS, R/O. 24-7-219, MAGUNTA LAYOUT, NELLORE CITY

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to call for the records relating to order and decree dated

16/9/2019 passed in IA No. 387/2019 and in OS No. 204/2013 on the file of I Additional Junior Civil Judge, Nellore, SPSR Nellore District and examine its legality, propriety and correctness of the same and consequently set aside the same by allowing the CRP in the interest of justice and to pass

IA NO: 1 OF 2023

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 stay of all further proceedings in OS No.204/2013 on the file of Hon'ble Ist Addl. Jr. Civil Judge, Nellore, pending disposal of the above CRP in the interest of justice and to pass

IA NO: 1 OF 2025

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 extend the interim orders granted in IA No. 1/2023 in CRP NO. 93/2023 Dated 19.1.2023 and to pass

Counsel for the Petitioner:

1.MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1.K NARSI REDDY

C.R.P.No.951 of 2023

Between:

1.P V LAKSHMI, W/O. NAGESWARA RAO HINDU, AGED ABOUT 58 YEARS, R/O. 25-11/669-A, POLICE COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DISTRICT

...PETITIONER

AND

1.P RAGHURAMI REDDY, S/O. POLL REDDY, HINDU, ADVOCATE AGED 59 YEARS, D NO. 23/1200/23, 2ND LANE, SODHAN NAGAR, NELLORE CITY.

2.PANTA SUBBA REDDY, S/O. LATE RAMI REDDY, HINDU, AGED ABOUT 74 YEARS, R/O. HOUSING BOARD COLONY,

KALLURUPALLI, NELLORE CITY.

3.PAMUJULA SURESH CHANDRA, S/O. NAGESWARA RAO HINDU, AGED ABOUT 39 YEARS, R/O. 25-11/669-A, POLICE COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DISTRICT

4.PONARI VENKATA RAO, S/O. DANDASI, HINDU, AGED ABOUT 54 YEARS, R/O. 24-7-219, MAGUNTA LAYOUT NELLORE CITY

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased topleased to call for the records relating to common order dt. 16.9.2019 passed in IA No. 386./2018 in OS No. 204/2013 on the file of I Addl Junior Civil Judge, Nellore, SPSR Nellore District and examine its legality, propriety and correctness of the same and consequently set aside the same by allowing the revision in the interest of justice and to pass

IA NO: 1 OF 2023

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 dispense with the filing of certified copy of order dt. 16.9y2019 in IA NO. 386/20Re in OS NO! 204/2013, On the file of I Junior Civil Judge, Nellore SPSR Netlore District in the above Revision in the interest of justice and to pass

Counsel for the Petitioner:

1.MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1.K NARSI REDDY

C.R.P.No.986 of 2023

Between:

1.PAMUJULA VIJAYA LAKSHMI, W/O. NAGESWARA RAO HINDU, AGED ABOUT 58 YEARS, R/O. 25-11/669-A, POLICE COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DISTRICT

...PETITIONER

AND

1. PUCHALAPALLI RAGHURAMI REDDY, S/O. POLI REDDY, HINDU, ADVOCATE AGED 59 YEARS, D NO. 23/1200/23, 2ND LANE, SODHAN NAGAR, NELLORE CITY.
2. PANTA SUBBA REDDY, S/O. LATE RAMI REDDY, HINDU, AGED ABOUT 74 YEARS, R/O. HOUSING BOARD COLONY, KALLURUPALLI, NELLORE CITY.
3. PAMUJULA SURESH CHANDRA, S/O. NAGESWARA RAO HINDU, AGED ABOUT 39 YEARS, R/O. 25-11/669-A, POLICE COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DISTRICT
4. PONARI VENKATA RAO, S/O. DANDASI, HINDU, AGED ABOUT 54 YEARS, R/O. 24-7-219, MAGUNTA LAYOUT NELLORE CITY (NOTE RESPONDENTS 3 AND 4 ARE NOT NECESSARY PARTIES TO THIS CRP, NO RELIEF IS CLAIMED AGAINST THEM.)

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to call for the records relating to common order dt. 16.9.2019 passed in IA No. 384/2018 in OS No. 204/2013 on the file of I Addl Junior Civil Judge, Nellore, SPSR Nellore District and examine its legality, propriety and correctness of the same and consequently set aside the same by allowing the revision in the interest of justice and to pass

IA NO: 1 OF 2023

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 dispense with the filing of certified copy of order dt. 16-09-2019 in IA.No. 384/2018 in OS.No. 204/2013, on the file of I Addl Junior Civil Judge, Nellore District in the Revision in the interest of justice and to pass

Counsel for the Petitioner:

1. MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1. K NARSI REDDY

Between:

- 1.PAMUJULA VIJAYA LAKSHMI, W/O. NAGESWARA RAO HINDU, AGED ABOUT 58 YEARS, R/O. 25-11/669-A, POLICE COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DISTRICT

...PETITIONER

AND

- 1.PUCHALAPALLI RAGHURAMI REDDY, S/O. POLI REDDY, HINDU, ADVOCATE AGED 59 YEARS, D NO. 23/1200/23, 2ND LANE, SODHAN NAGAR, NELLORE CITY.
- 2.PANTA SUBBA REDDY, S/O. LATE RAMI REDDY, HINDU, AGED ABOUT 74 YEARS, R/O. HOUSING BOARD COLONY, KALLURUPALLI, NELLORE CITY
- 3.PAMUJULA SURESH CHANDRA, S/O. NAGESWARA RAO HINDU, AGED ABOUT 39 YEARS, R/O. 25-11/669-A, POLICE COLONY, DARGA MITTA, NELLORE TOWN, NELLORE DISTRICT
- 4.PONARI VENKATA RAO, S/O. DANDASI, HINDU, AGED ABOUT 54 YEARS, R/O. 24-7-219, MAGUNTA LAYOUT NELLORE CITY

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased topleased to call for the records relating to common order dt. 16.9.2019 passed in IA No. 385/2018 in OS No. 204/2013 on the file of I Addl Junior Civil Judge, Nellore, SPSR Nellore District and examine its legality, propriety and correctness of the same and consequently set aside the same by allowing the revision in the interest of justice and to pass

IA NO: 1 OF 2023

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 dispense with the filing of certified copy of order dt. 16.9.2019 in IA NO. 38,42023 in OS NO. 204/2013, On the file of I Addl Junior Civil Judge, Nellore SPSR Nellore District in the above Revision in the interest of justice and to pass

Counsel for the Petitioner:

- 1.MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1.K NARSI REDDY

The Court made the following:

COMMON ORDER:

Assailing the correctness and legality of the common order passed by the learned I Additional Junior Civil Judge, Nellore, in I.A.Nos.384 to 387 of 2019 in O.S.No.204 of 2013, the present Civil Revision Petitions have been filed.

2. Inasmuch as these Civil Revision Petitions arise out of common order, they are heard together and are being decided by this common order.

3. The brief facts leading to filing of these revision petitions are that the revision petitioner is the 1st plaintiff, respondent Nos.1 and 2 are the defendants and respondent Nos.3 and 4 are the co-plaintiffs 2 and 3 in a suit filed for declaration that the suit schedule property is a road meant for public use and that the 1st defendant has no right or title over the plaint schedule property and for a direction to the 1st defendant to vacate the suit schedule property by removing the compound wall raised thereon and, in default, for removal of the same through process of Court. The suit was also filed for grant of permanent injunction restraining the 1st defendant and his men from in any way interfering with the plaintiffs and the public from making use of the suit schedule property as a public road.

4. After closure of the evidence on both sides, the revision petitioner/1st plaintiff along with co-plaintiffs 2 and 3 filed interlocutory applications vide I.A.Nos.384 to 387 of 2019 seeking the following reliefs:-

- (i) To reopen the suit for recall P.W.1 for marking documents;
- (ii) To recall P.W.1 for marking documents;

- (iii) To receive documents enclosed along with the petition by condoning the delay in filing the same; and
- (iv) To appoint an Advocate Commissioner to inspect the suit schedule property, note down the physical features of the suit schedule property and the properties on all four sides thereof, permit taking of photographs and videographs as pointed out by both the counsel, measure the same with the help of a Municipal Surveyor, prepare a rough sketch and file a report.

5. The said applications were opposed by respondent Nos.1 and 2/defendants 1 and 2 denying the allegations and praying to dismiss the interlocutory applications. After hearing both parties, taking into consideration the material available on record, the Court below dismissed all the interlocutory applications. Assailing the same, the present civil revision petitions have been filed.

6. Heard Sri J.Kumar, learned Senior Counsel assisted by Sri B.Manoj Kumar, learned counsel for the petitioner and Sri K.Narsi Reddy, learned counsel for respondent No.1.

7. Learned Senior Counsel for the petitioner, while reiterating the contents of the affidavits filed in support of the interlocutory applications and the grounds of revision, submitted that the 1st respondent constructed a compound wall on a road meant for public use without having any manner of right or title. In those circumstances, the subject suit came to be filed. After closure of evidence, the present interlocutory applications came to be filed. He

further submitted that the Court below failed to see the purport of filing the applications and also failed to take into consideration the facts and circumstances of the case in a right perspective. In fact, no prejudice would be caused to the defendants if such applications are allowed. The Hon'ble Apex Court has categorically held that when the parties intend to let in evidence, the same cannot be shut out merely on the ground of delay. If the said interlocutory applications are not allowed, the rights of the revision petitioner would be affected. As such, he prayed to allow the revisions and consequently allow the interlocutory applications filed by the plaintiffs.

8. On the other hand, learned counsel for the 1st respondent, in elaboration to what has stated in the counter filed before the Court below, submitted that there is neither illegality nor any procedural impropriety in passing the orders impugned. The Court below, having taken due note of the entire facts and circumstances of the case and the law applicable thereto, rightly dismissed the applications by passing reasoned order. He further submitted that the Hon'ble Apex Court, in a catena of decisions, has consistently held that parties should not be permitted to adduce evidence after closure of evidence merely to fill up lacunae. Further, the petitioner failed to satisfy the Court below by assigning any plausible reason for reopening the evidence. The suit is of the year 2013 and has been pending for more than a decade. Petitioner has not raised any valid ground warranting interference by this Court and prayed to dismiss the revision.

9. Perused the record and considered the submissions made by both the learned counsel.

10. It is not in dispute that after closure of evidence on both sides and when the matter was posted for arguments, the plaintiffs filed the above referred four interlocutory applications.

11. As could be seen from the record and the averments made in the affidavits filed in support of interlocutory applications, no plausible reasons were assigned for seeking reopening of evidence, recall of P.W.1 or receiving of documents. The Court below observed that the documents now sought to be received were in the possession of the plaintiffs since the year 2011 and no explanation was given as to why the said documents were not filed at the time of evidence on behalf of plaintiffs. The Court below considered the facts and circumstances of the case in a right perspective and rightly dismissed the applications insofar as reopening of evidence, recall of P.W.1 and receiving of documents are concerned.

12. Insofar as appointment of Advocate Commissioner in C.R.P.No.93 of 2023 is concerned, the issue relates to alleged occupation of the road in a layout and raising of a residential house on the northern side of the suit property and construction of a compound wall by occupying entire suit schedule property. Until and then an Advocate Commissioner visits the subject property and verify on ground whether the defendant has occupied the road as alleged by the plaintiffs, the said fact cannot come on record through

evidence. When substantial evidence has already been let in, appointment of an Advocate Commissioner would not amount to collection of evidence.

13. The revision petitioner/plaintiff asserts that the defendant has occupied the road, whereas the defendant denies the same. When there is a dispute in that regard, it is necessary to appoint an Advocate Commissioner to note down the physical features. It is a well-settled principle that when there is a dispute or issue with regard to identity of the property involved in litigation, it is necessary to appoint an Advocate Commissioner for localizing the property, even by taking necessary assistance of a qualified surveyor, and such exercise would not amount to prohibited collection of evidence.

14. In the said view of the matter, the Court below failed to consider the application for appointment of an Advocate Commissioner in a right perspective and thereby erroneously dismissed the same without assigning any proper or justifiable reasons, which warrants interference by this Court under Article 227 of the Constitution of India.

15. Accordingly, the Civil Revision Petition No.93 of 2023 is allowed and consequently I.A.No.387 of 2019 is also allowed. The Court below is directed to appoint an Advocate Commissioner, fix a date and invite a report. No doubt, an Advocate Commissioner report is not a conclusive proof. The parties can file their work memos at the time of execution of warrant and also file objections, if any, to the report after its submission.

16. Insofar as other Civil Revision Petitions are concerned, for the reasons stated above, they are liable to be dismissed.

17. Accordingly, C.R.P.Nos.951, 986 and 971 of 2023 are dismissed. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

Date: 23rd April, 2026
JLV

JUSTICE RAVI CHEEMALAPATI

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THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION Nos: 93, 951, 986 and 971 of 2023

Date: 23rd April, 2026
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