



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

[3560]

THURSDAY, THE THIRTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CIVIL REVISION PETITION NO: 582/2020

Between:

1. DUGGIRALA SRI LAKSHMI SAHASYA, D/O.SRI D.PRABHAKAR HINDU,
AGED 21 YEARS OCC-STUDENT, R/O.DOOR NO.15/203
SATYANARAYANAPURAM, GUDIVADA KRISHNA DISTRICT, ANDHRA
PRADESH
2. DUGGIRALA GAYATRI SAHISTNA, D/O.SRI D.PRABHAKAR HINDU,
AGED 20 YEARS OCC-STUDENT, R/O.DOOR NO.15/203
SATYANARAYANAPURAM, GUDIVADA KRISHNA DISTRICT, ANDHRA
PRADESH (PETITIONERS 1 AND 2 ARE REP.BY THEIR MOTHER AND
G.P.A.HOLDER SMT.D.SRIDEVI)

...PETITIONER(S)

AND

1. DUGGIRALA PRABHAKAR, S/O.SRI D.JAGAN MOHAN RAO HINDU,
AGED 52 YEARS, OCC-BUSINESS R/O.AUTONAGAR, GUDIVADA
KRISHNA DISTRICT, ANDHRA PRADESH
2. DUGGIRALA JAGAN MOHAN RAO, S/O.SRI D.PRABHAKARA RAO
HINDU, AGED 77 YEARS OCC-BUSINESS, R/O.AUTO NAGAR
GUDIVADA, KRISHNA DISTRICT, ANDHRA PRADESH
3. DUGGIRALA PUSHPA LEELAVATHI, W/O.PRABHAKARA RAO HINDU,
AGED 70 YEARS OCC-PROPERTIES, R/O.AUTO NAGAR, GUDIVADA,
KRISHNA DISTRICT ANDHRA PRADESH

- 4.ATLURI DINAKARA PRASAD, S/O.RAMA SASTRULU HINDU, AGED 70 YEARS, OCC-CULTIVATION R/O.CHOWTAPALLI, GUDIVADA, KRISHNA DISTRICT, AP W/O.PRABHAKARA RAO HINDU, AGED 70 YEARS OCC-PROPERTIES, R/O.AUTO NAGAR, GUDIVADA, KRISHNA DISTRICT ANDHRA PRADESH
- 5.ATLURI RARNBABU, S / O.A. DIN AKARA PRASAD HINDU, AGED 48 YEARS OCC-CULTIVATION, R/O.CHOWTAPALLI, GUDIVADA RURAL MANDAL KRISHNA DISTRICT, ANDHRA PRADESH
- 6.ATLURI RANIASASTRULU, S/ O.A.DIN AKARA PRASAD HINDU, AGED 45 YEARS, OCC-CULTIVATION R/O.CHOWTAPALLI, GUDIVADA RURAL MANDAL KRISHNA DISTRICT, ANDHRA PRADESH
- 7.ATLURI RAMESH, S/O.LATE SUDHAKARA RAO HINDU, AGED 53 YEARS OCC-CULTIVATION, R/O.CHOWTAPALLI GUDIVADA RURAL MANDAL KRISHNA DISTRICT, ANDHRA PRADESH
- 8.ATLURI ANN APURNAMMA, W/ O. LATE SUDHAKARA RAO HINDU, AGED 70 YEARS OCC-PROPERTIES, R/O. C HOWTAPALLI GUDIVADA RURAL MANDAL KRISHNA DISTRICT, ANDHRA PRADESH
- 9.ATLURI SRINIVASA RAO, S/O.LATE SUDHAKARA RAO HINDU, AGED 48 YEARS, OCC-CULTIVATION, R/O.CHOWTAPALLI GUDIVADA RURAL MANDAL, KRISHNA DISTRICT, ANDHRA PRADESH

...RESPONDENT(S):

Counsel for the Petitioner(S):

- 1.TURAGA SAI SURYA

Counsel for the Respondent(S):

- 1.S.V.S.S.SIVA RAM

- 2.

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CIVIL REVISION PETITION NO: 582 of 2020

ORDER

Heard.

2. Being aggrieved and by dissatisfied with an order dated 26.12.2019 passed by the learned Principal Senior Civil Judge, Gudivada in F.D.I.A.No.469 of 2005 in O.S.No.159 of 2004, the plaintiff being the petitioner has preferred this instant Civil Revision Petition.

3. The brief facts of the matter are that - the petitioner being plaintiff filed a suit for partition by metes and bounds in respect of properties having separate five (5) items. The suit was decreed in preliminary form. Plaintiff filed an application for final decree by appointing an Advocate – Commissioner. The respondents No.4 to 9 contested the application and placed on record before the court that the schedule suit property being items 1 to 5 has already been settled by earlier decree of the same court. At the time of hearing of the parties, the learned trial court has observed the argument laid on behalf of the parties and decided the point on the basis of the earlier decrees. The learned trial court is of the view that the preliminary decree obtained by the plaintiff/petitioner in the suit is collusive one, thus, the application for final decree was turndown.

4. Learned counsel for the petitioner specifically submits that the court cannot go beyond the preliminary decree and a final decree cannot be passed in

conflict with the preliminary decree. He submits that when a preliminary decree has already decided the right and title of plaintiff, the court in deciding final decree cannot go beyond the preliminary decree. Learned counsel for petitioner submits that item No.5 of the suit schedule property has never been settled in earlier suit but the learned court below simultaneously heard the claim petitioners in E.A.No.68 of 2012 and E.A.No.56 of 2012 in E.P.No.3 of 2003 in O.S.No.140 of 1997 filed under order XXI, Rule 97 of the Civil Procedure Code in respect of item No.5. It is the positive ground for the learned counsel for the petitioner that the merit of an application regarding executability of item No.5 in the said suit schedule property has to be decided separately by the learned trial court.

5. Learned counsel appearing on behalf of the respondent has firmly submits that the petitioner was colluded with Respondents No.1 to 3 and obtained a preliminary decree in that suit. He submits that when this fact appears before the court who deciding a final decree, it is bounden duty of the court to dismiss the application for final decree. He further submits that there is no illegality by the learned trial court in passing the impugned order. He further submits that the preliminary decree of partition was obtained by the plaintiff in collusion with other respondents No.1 to 3, thus, the order passed by the learned trial court cannot be set aside.

6. Having heard the learned counsel for the parties, considering the merits of this matter, it appears that the point of Law involved in the instant Criminal

Revision Petition as to whether a court in deciding an application for final decree can hold that a preliminary decree was obtained by the petitioner in collusion with other respondents? It appears from the impugned Order that the learned counsel for the petitioner has placed observation of this High Court in **Jaladi Joshi Vs Jaladi Venkata Ramaiah** as well as **Neelam Chittemma and others Vs. Tirlangi Appa Rao and others**. The trial court has observed that the issue is well founded but in the present facts and circumstances as it has been observed that the preliminary decree obtained by the plaintiff is a collusive one. Thus, he denied to pass an order for final decree.

7. Generally, a court proceeding in a final decree must follow the direction, preliminary decree passed by a court having competent jurisdiction. It appears in the peculiar facts and circumstances that the suit schedule property was subject matter of earlier suit and some of the properties were auctioned by the court in favour of other respondents. It further appears that the plaintiff has never pleaded the fact before the court at the time of preliminary decree, only the fact narrated by the petitioner at the time of final decree. The learned trial court though have not observed the fact regarding present status of the suit schedule property, but it appears to this court that the suit schedule property which was the subject matter of the earlier suit has already been settled by the earlier court. Thus, the suit schedule property on the basis of which the preliminary decree has been passed has become non executable. In my view the observation of the

learned trial court regarding denied the plaintiff's prayer for final decree appears to be justifiable.

8. Under the above observation, I have no just reason to entertain present petition. Thus, the instant Civil Revision Petition disposed of and dismissed as devoid of merits.

9. Accordingly, the Civil Revision Petition is dismissed as devoid of merits. There shall be no order as to costs.

10. Pending Miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBHENDU SAMANTA

KS

51

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CIVIL REVISION PETITION NO: 582 of 2020

DATED: 13.11.2025.

KS