

APHC010127782026



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

[3299]

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

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 779/2026

Between:

1. SANAPALA AMMAJI, W/O SANAPALA KODANDA AGED ABOUT 65
YEARS, D. NO. 39-16-43, MADHAVADHARA, VISAKHAPATNAM -
530007

...PETITIONER

AND

1. NAMBALLA PARVATHI DEVI, W/O LATE RAMULU, AGED ABOUT 68
YEARS, D.NO. 39-11-73/1, MADHAVADHRA, VISAKHAPATNAM -
530007

2. NAMBALLA SURYANARAYANA, S/O LATE RAMULU, AGED ABOUT
43 YEARS, R/O D.NO. 39-11-73/1, MADHAVADHRA,
VISAKHAPATNAM - 530007

3. SMT NAMBALLA BHULAXMI, W/O LATE RAMPRASAD, AGED
ABOUT 45 YEARS, D.NO. 39-11-73//1, MADHAVADHRA,
VISAKHAPATNAM - 530007

4. LOUCHERLA GOWRI, S/O L GANGULA, AGED ABOUT 56 YEARS,

R/O D. NO. 39-14-5, MURALINAGAR, VISAKHANAPTNAM - 530007

5.LOUCHERLA SUBHADRA, W/O L GOWRI, AGED ABOUT 51 YEARS,
R/O D. NO. 39-14-5, MURALINAGAR, VISAKHANAPTNAM - 530007

...RESPONDENT(S):

Counsel for the Petitioner:

1.A PRABHAKAR SARMA

Counsel for the Respondent(S):

1.

The Court made the following:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION No.779 of 2026

ORDER:

Heard Sri A.Prabhakar Sarma, learned counsel for the petitioner appearing through virtual mode and perused the material on record.

2. The plaintiff/petitioner filed O.S.No.173 of 2024 for declaration of title as absolute owner of the plaint schedule property and also for consequential relief of recovery of possession and mandatory injunction.

3. The plaint schedule property mentioned is as under:

"SCHEDULE OF THE PROPERTY

All the property an extent of 73 sq.yards or 61.37 sq.meters situated in Sy.No.57/1 of Marripalem Village, within the limits of GVMC and within the limits of Dwarakanagar SRO, Visakhapatnam and bounded as follows:

East: Compound wall of this property and thereafter property of Municipality school (presently occupied by defendants)

South: Property belong to Sanapala Kodanda

West: Property belongs to Plaintiff

North: Road leading to Madahavadhara

Eastern Dande North to South 12.87

Western Dande South to North 14.42

Northern Dande East to West 9.68

South 0 "

4. The respondents are the defendants in the suit. The 1st defendant filed written statement and inter alia denied the plaint averments. It is the case of the said defendant inter alia that the property covered by the plaint schedule said to have been purchased under the registered sale deed dated 02.08.1982 in favour of the plaintiff is not there. The said property is elsewhere and not as claimed by the plaintiff. The defendant further submitted that the Survey No.57/1 of Marripalem Village is bounded by Survey No.1 of Kapparada Village, that means that both the survey numbers are different and have different boundaries to each other. The defendants' property to an extent of 190 sq.mtrs of Kapparada and 364 sq.mtrs covered by Survey No.57/1A of Marripalem Village, totaling an extent of 554 sq.mtrs is the absolute property of the 1st defendant's husband, which she

received in the oral partition along with certain other properties of which a memorandum was written. In the said property covered by Sy.No.57/1A, the defendant submitted that there were semi-permanent structures with eight portions of a residential house with asbestos sheet roofing. The 1st defendant submitted that the plaintiff did not give the details of her property, and further that in the plaint, as mentioned in the schedule of the property, towards East, it is mentioned, presently occupied by the defendants, towards West of the defendants, is the eastern boundary of the plaintiffs as per the schedule.

5. The defendants 2 to 5 adopted the written statement filed by the 1st defendant.

6. The defendants filed an application in I.A.No.749 of 2024 under Order XXVI Rule 9 C.P.C to appoint the advocate commissioner to note down the physical features of the property covered by Survey No.1 of Kaparada Village to an extent of 119 Sq.mtrs and the property covered by Survey No.57/1A of Marripalem Village to an extent of 364 Sq.mtrs, submitting, "which is a contiguous piece of land that falls in two villages on the

boundaries of each other village, and take measurement of the property and also the measurements of the property of the plaintiff on their eastern side beyond the boundary wall”.

7. The plaintiff/petitioner filed counter in the said application, inter alia objecting the issuance of warrant of the advocate commissioner for inspection.

8. The learned Court of II Additional Civil Judge (Senior Division), Visakhapatnam, allowed I.A.No.749 of 2024 by order dated 22.12.2025.

9. Challenging the order dated 22.12.2025, the present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the plaintiff.

10. The operative portion of the order under challenge reads as under:

“ In the result, the petition is allowed, Sri S.Swaroop Raj, Advocate is appointed as Advocate Commissioner, to note down the physical features of the properties of the petitioners/defendants and respondent/plaintiff with respect to their documents with the assistance of Official surveyor. The advocate commissioner is directed to take photographs of the properties, more particularly, the place between the properties in all possible angles, prepare a rough sketch and file it along

with the report. The advocate commissioner is directed to collect work memos, if any from the parties before executing the warrant and execute the warrant in accordance with the work memo as far as practicable. The fee of advocate commissioner is fixed at Rs.8,000/- (Rupees Eight Thousand only) to be directly payable by petitioners/defendants by next date.

For filing report, call on 29.01.2025.”

11. The learned Trial Court observed that there was a serious dispute with regard to the existence of an old compound wall between the properties of the defendants and the plaintiff. To know the physical features of the properties and to keep the physical features intact, it is desirable to appoint an advocate commissioner to note down the physical features of the properties of the defendants and the plaintiff for better adjudication of the matter.

12. Sri A.Prabhakar Sarma, appearing through virtual mode for the petitioner, submitted that the application for the appointment of the advocate commissioner could not be allowed to inspect, make measurements and submit the report for the property as mentioned by the defendants i.e. Survey No.57/1A, which is other than the suit property. In his submission, the

advocate commission could not be issued for the property other than the suit property. According to him, as mentioned in the plaint, plaint schedule property is Survey No.57/1. The advocate commissioner could not be appointed to measure the property and to note down the physical features of the defendants' property.

13. I have considered the aforesaid submission but find no force. Submission deserves to be rejected.

14. The learned Trial Court has directed to note down the physical features of the properties of the defendants and also of the plaintiff with respect to their respective documents with the assistance of official surveyor and after conducting the commission work, to submit the report. The learned Trial Court has clearly and specifically directed the advocate commissioner to take photographs of the properties, more particularly, the place between the properties in all possible angles and prepare a rough sketch. So, the submission that the learned Trial Court has directed to measure only the defendants' property, other than the suit property is not correct. The direction has been given to measure both the properties as claimed by the parties. The order

itself directs the investigation, to note down the physical features of the properties of both the parties for better adjudication of the controversy involved in the suit which was so required by the Court.

15. Prima facie it appears from the documents filed that the property towards East of the plaintiff's property is in possession of the defendants. The Survey No.57/1A towards East of Survey No.57/1 appears to be the plaintiff's property.

16. This Court is of the view that by issuance of the advocate commission, no prejudice is going to be caused to the petitioner/plaintiff. The commission shall be conducted with due notice, and with an opportunity to both the sides. After the report is submitted, the parties shall certainly have their right to file the objections against the said report if so required. The report of the commission of the advocate commissioner is only a piece of evidence subject to the fulfillment of the requirements under Order 26 Rules 9 and 10 C.P.C for its acceptance. So, on conducting commission by the advocate commissioner pursuant to the

impugned order, atleast at this stage any of the rights of the plaintiff is not being infringed or adversely affected.

17. This is not a fit case for interference in exercise of the jurisdiction under Article 227 of the Constitution of India.

18. The Civil Revision Petition is dismissed. There shall be no order as to costs.

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

RAVI NATH TILHARI, J

Date: 30 .04.2026.
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