

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY ,THE TWENTY EIGHTH DAY OF MARCH

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

CIVIL REVISION PETITION NO: 664 OF 2024

Between:

Konutula Yogendra Rao, S/o. Late Kantharao, Aged about 65 years, Medical Practitioner, Cultivation, R/o. Chinnakittalapadu Village, Saravakota Mandal, Srikakulam District.

**...Revision Petitioner/Implead Petitioner
AND**

1. Konutual Bhaktavathsalam, S/o. Late Kantharao, Aged about 63 years, R/o. Chinnakittalapadu Village, Saravakota Mandal, Srikakulam District.

...Respondent/Respondent No.1/Plaintiff

2. Suravarapu Kanthamma, W/o. Sreeramulu, Aged about 50 years, R/o. Bontu Village, Chinnakittalapadu Post, Saravakota Mandal Srikakulam District.
3. Suravarapu Sriramulu, Aged about 55 years, R/o. Bontu Village, Chinnakittalapadu Post, Saravakota Mandal, Srikakulam District.

...Respondents/Defendant Nos.1 & 2

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 allow the CRP by setting aside the orders dated 02.11.2023 passed in IA.No.53 of 2019 in OS.No.28 of 2014 on the file of the Junior Civil Judge at Vijayawada

IA NO: 1 OF 2024

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the memorandum of grounds filed in support of the



petition, the High Court may be pleased to grant Stay of all further proceedings in OS.No.28 of 2014 on the file of the Junior Civil Judge Pathapatnam, Pending disposal of CRP 664 of 2024, on the file of the High Court.

The Petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of SRI N ASHWANI KUMAR Advocate for the Petitioner, the Court made the following

ORDER:

Heard Sri N. Ashwani Kumar, Learned Counsel for the Petitioner.

2. Learned Counsel for the Petitioner would submit that the Petitioner herein is the sibling of the Plaintiff (Respondent No.1) in O.S.No.28/2014. Learned Counsel would submit that the Suit which is filed by the Plaintiff (Respondent No.1 herein) in O.S.No.28/2014 is a collusive Suit for Injunction filed against certain Defendants without there being any cause of action. Learned Counsel would submit that the Petitioner herein had filed an Application bearing I.A.No.53/2019 in O.S.No.28/2014, seeking to implead himself, basing on the strength of a 'will' executed by the mother in his favour and the said Application bearing I.A.No.53/2019 is dismissed by the Junior Civil Judge, Pathapatnam, by Order dated 02.11.2023 (Impugned herein). Learned Counsel would submit that prior to this Suit, there was another Suit bearing O.S.No.173/1985 pending between the mother of the Petitioner and the Plaintiff in O.S.No.28/2014. He would submit that there is a Second Appeal bearing S.A.No.47/2017 pending before this Court arising out of O.S.No.173/1985. Learned Counsel has drawn the attention of this Court to Page Nos.25 and 26 of the paper book to show the details of the pending Second Appeal. Learned Counsel would submit that while the

Suit Proceedings bearing O.S.No.173/1985 were in progress, the Respondent No.1 (Plaintiff) has filed a collusive Suit against Respondent Nos.2 and 3 (Defendant Nos.1 and 2 in O.S.No.28/2014). Learned Counsel would submit that the Learned Junior Civil Judge, Pathapatnam, without appreciating the contention of the Petitioner, had erroneously dismissed the I.A.No.53/2019 by Order dated 02.11.2023.

3. Having regard to the contentions of the Petitioner herein, this Court is of the prima facie opinion that the balance of convenience lies in favour of the present Petitioner. Accordingly, there shall be a stay of the Suit Proceedings in O.S.No.28/2014 on the file of the Junior Civil Judge, Pathapatnam until further Orders.

4. Learned Counsel for the Petitioner is directed to take out Personal Notice in respect of Respondent Nos.1 to 3 within one week from today and file proof of receipt of Notice within two weeks thereafter.

5. List the matter on 26.04.2024.

Sd/- N. NAGAMMA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

For A

To,

1. The Junior Civil Judge at Vijayawada, Krishna District
2. The Junior Civil Judge, Pathapatnam, Srikakulam District
3. Konutual Bhaktavathsalam, S/o. Late Kantharao, Aged about 63 years, R/o. Chinnakittalapadu Village, Saravakota Mandal, Srikakulam District.

4. Suravarapu Kanthamma, W/o. Sreeramulu, Aged about 50 years, R/o. Bontu Village, Chinnakittalapadu Post, Saravakota Mandal Srikakulam District.
5. Suravarapu Sriramulu, Aged about 55 years, R/o. Bontu Village, Chinnakittalapadu Post, Saravakota Mandal, Srikakulam District.

(Addressees 3 to 5 by RPAD)

6. One CC to SRI. N ASHWANI KUMAR Advocate [OPUC]
7. **One spare copy**

PSR

HIGH COURT

GRKP,J

DATED:28/03/2024

NOTE: LIST THE MATTER ON 26.04.2024.

ORDER

CRP.No.664 of 2024

INTERIM STAY

