



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

[3332]

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

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 664/2024

Between:

1.KONUTULA YOGENDRA RAO, S/O. LATE KANTHARAO, AGED ABOUT 65 YEARS, MEDICAL PRACTITIONER, CULTIVATION, R/O. CHINNAKITTALAPADU VILLAGE, SARAVAKOTA MANDAL, SRIKAKULAM DISTRICT.

...PETITIONER

AND

1.KONUTUAL BHAKTAVATHSALAM, S/O. LATE KANTHARAO, AGED ABOUT 63 YEARS, R/O. CHINNAKITTALAPADU VILLAGE, SARAVAKOTA MANDAL, SRIKAKULAM DISTRICT.

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.

...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 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 and pass

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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 grant Stay of all further proceedings in OS.No.28 of 2014 on the file of the Junior Civil Judge Pathapatnam, pending disposal of the CRP and pass

Counsel for the Petitioner:

1.N ASHWANI KUMAR

Counsel for the Respondent(S):

1.P RAJKUMAR

The Court made the following order:

Assailing the correctness and legality of the order dated 02.11.2023 passed in Interlocutory Application No.53 of 2019 in Original Suit No.28 of 2014 on the file of the Court of Junior Civil Judge at Pathapatnam, the present Civil Revision Petition is filed.

2. The facts that led to filing of the present Civil Revision Petition are that:

The petitioner herein is the implead petitioner, respondent No.1 is the plaintiff and respondent Nos.2 and 3 are defendant Nos.1 and 2 in O.S.No.28 of 2014.

The respondent No.1/plaintiff filed O.S.No.28 of 2014 on the file of the Court of Junior Civil Judge, Pathapatnam for permanent injunction against respondent Nos.1 and 2. In the said suit, the petitioner/proposed party filed I.A.No.53 of 2019 under Order I Rule 10 CPC seeking to implead himself as defendant No.3 in the suit. The said application was opposed by the respondents by filing counter denying the allegations made in the affidavit. After hearing the parties, the trial Court dismissed the said application. Aggrieved by the same, the present Civil Revision Petition is filed.

3. Heard Ms P.Sandhya, learned counsel, representing Sri N.Ashwani Kumar, learned counsel for the petitioner and Sri P.Raj Kumar, learned counsel for respondent No.1/plaintiff.

4. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit filed before the trial Court in interlocutory application and the grounds of revision, contended that the proposed party has right, title and interest over the suit schedule property by virtue of a Will. In those circumstances, upon coming to know about the suit, the petitioner filed an Interlocutory Application under Order I Rule 10 CPC seeking impleadment as defendant No.3, being a necessary party to the suit. She further contended that the trial Court erroneously dismissed the application without assigning any reasons, merely on the ground that the plaintiff is *dominus litis*. She further submitted that no prejudice would be caused to the plaintiff, if the petitioner is impleaded as defendant No.3. She further submitted that the presence of the petitioner would aid to the Court for better adjudication of the suit. Hence, prayed to allow the Civil Revision Petition.

5. On the other hand, learned counsel for the respondent, while justifying the orders passed by the trial Court contended that there is no illegality nor procedural irregularity nor impropriety in the impugned order. He further submitted that the trial Court has rightly applied the well settled principle of '*dominus litis*' and rightly dismissed the application. He further contended that no grounds are made out warranting interference by this Court. Hence, prayed to dismiss the Civil Revision Petition.

6. Perused the material available on record and considered the submissions made by learned counsel for the parties.

7. As could be seen from the record, the petitioner is claiming right, title and interest over the suit schedule property by way of Will. It is not in dispute that the petitioner and respondent No.1 are brothers. It is the contention of the petitioner that respondent No.1/plaintiff had migrated to Hyderabad and after coming to know that the value of the suit schedule property had increased, returned back and has been attempting to grab the schedule property filed the suit against defendant Nos.1 and 2. Upon hearing the parties, the trial Court dismissed the application duly holding that the said application has been filed after a long lapse of time by respondent No.1/Plaintiff, who is none other than the brother of the petitioner. It was further observed that the suit is of bare injunction, wherein the burden lies upon the plaintiff to establish his possession over the suit schedule property and if any issue arises with regard to the title, the parties would have the opportunity to seek appropriate relief. It was further observed that the petitioner has already filed a suit, which is pending consideration before this Court. Placing reliance on the decision of the Hon'ble Supreme Court of India in '**Sudamayi Patnaik v. Bibhu Prasad Sahu** [2022 SC 773], it was held that nobody can be permitted to be impleaded as a defendant against the wishes of the plaintiff.

8. The law is well settled that in a suit for bare injunction, the plaintiff, being *dominus litis*, cannot be compelled to add a party against his wish unless the presence of such party is necessary for effective and complete adjudication of the issues involved. Under Order I Rule 10 CPC, impleadment

is permissible only when the proposed party is shown to be a necessary or proper party to the adjudication of the suit. In the present case, the petitioner seeks impleadment on the basis of his alleged title over the suit schedule property under a Will. However, the suit is for permanent injunction and the question of title is not directly in issue.

9. No doubt, the plaintiff is *dominus litis*. However, being *dominus litis* does not mean that an application under Order I Rule 10 of CPC should be automatically dismissed. The suit is for a bare injunction against the defendants and any decree passed therein would not bind the petitioner, as a decree of injunction is in *personam*, but not in *rem*. In those circumstances, the petitioner cannot be termed as a proper and necessary party to the suit. If the petitioner apprehends that the plaintiff is trying to grab the property in which he claims right, he is at liberty to independently protect his rights by filing a separate suit. However, he cannot insist on being impleaded in a suit for bare injunction. The trial Court has rightly dismissed the said application, which does not warrant any interference.

10. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

09.04.2026
MP

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THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION No.664 of 2024

Dated 09.04.2026

MP