



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

[3397]

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

**THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA
KRISHNA RAO**

**I.A.NO.1 OF 2022
IN
SECOND APPEAL NO: 276/2019**

Between:

1. BONDADA NAGA VENKATA SIVA
NAGESWARA RAO & 3 OTHERS

... PETITIONERS/PROPOSED RESPONDENTS 5 TO 8

AND

1.AITHA VENKATA RAMA RAO, SIO. VENKATA SUBBAIAH, AGED
ABOUT 52 YEARS, OCC. BUSINESS, R/O. DOOR NO. 22-12-52,
VENKATA RAMA TALKIES ROAD, BHIMAVARAM

... RESPONDENT/APPELLANT

2.BONDADA SREE RAMAKRISHNA PARAMAHAMSA (DIED), S/O.
LATE RANGA RAO, AGED ABOUT 71 YEARS, R/ O. DOOR NO.3-11-
25, GALI VARI LAYOUT, BEHIND KISHORE TALKIES, BHIMAVARAM

3.BONDADA SATYA PRASADA RAO, S/O. LATE RANGA RAO, AGED
ABOUT 66 YEARS, R/O. DOOR NO.9-57, LALITHA NAGAR COLONY,
DILSHUK NAGAR, HYDERABAD (DIED)

4.SMT BONDADA ANNAPURNA, W/O. LATE SATYA PRASADA RAO,
AGED ABOUT 60 YEARS, PROPERTIES, R/O. DOOR NO.9-57,
LALITHA NAGAR COLONY, DILSHUK NAGAR, HYDERABAD

5.PENUGONDA NEELIMA, W/O. SRINIVAS, D/O. LATE BONDADA
SATYA PRASADA RAO, AGED ABOUT 34 YEARS, HOUSE WIFE,

R/O. DOOR NO.9-57, LALITHA NAGAR COLONY, DILSHUK NAGAR,
HYDERABAD, CITY CIVIL COURT, HYDERABAD

6.APPANA NAGA LAKSHMI, W/O VENKATESWARA RAO, AGED
ABOUT 56 YEARS, H.NO.32-1-73/2, KVR SWAMY ROAD,
RAJAMUNDY (URBAN), EAST GODAVARI DISTRICT.

7.CHITLURI NAGAPADMANJALI, W/O. CHINNA KRISHNA RAO, AGED
ABOUT 61 YEARS, D.NO.8-199/1, RAJAKA STREET, NEAR GBG
ROAD, CHINTALAPUDI, WEST GODAVARI DISTRICT.

(RESPONDENT NOS. 6 AND 7 ARE BROUGHT ON RECORD AS LRS
OF DECEASED RESPONDENT NO.1, VIDE I.A.NO.5 OF 2024 IN S.A.
NO.276 OF 2019, AS PER THE COURT ORDER DT. 29.01.2025)

...RESPONDENTS/RESPONDENTS 1 TO 6

IA NO: 1 OF 2022

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 permit the Petitioners herein/ Proposed Respondents 5, 6, 7 & 8 to come on record as Respondents 5, 6, 7 and 8 in S.A.No.276/2019.

Counsel for the Petitioners/Proposed Respondents 5 to 8:

A SATYA PRASAD, SENIOR COUNSEL, REPRESENTING

1.N BHARATH SIMHA REDDY

2.HARINADH NIDAMANURI

Counsel for the Respondent No.1/Appellant:

1.RAVITEJA PADIRI

The Court made the following:

Order:

This application is filed under Order I, Rule 10 of C.P.C seeking to permit the petitioners herein/proposed respondents 5 to 8 to come on record as respondents 5 to 8 in S.A.No.276 of 2019.

2. The case of the petitioners, in brief, is as follows:

(a) The 1st petitioner/proposed 5th respondent filed an affidavit in support of the present application on behalf of the petitioners 2 to 4/proposed respondents 6 to 8 also. It is pleaded that the 1st respondent/appellant knowing fully well aware that they are the *bona fide* purchasers and owners of the subject property, without impleading them as party respondents, filed the suit, first appeal and the present second appeal. The present application is filed seeking to implead them as respondents 5 to 8 in the above appeal as they are proper and necessary parties for proper adjudication of the *lis*.

(b) It is further pleaded that the mother of respondents 1 and 2 and mother-in-law and grandmother of respondents 3 and 4 is the absolute owner and possessor of G+2 RCC building constructed on 71 square yards bearing Door No.22-15-52, situated at Bhimavaram, West Godavari District. She executed a registered gift deed dated 17-01-1983 in favour of the respondents 1 and 2 in respect of the said building. By virtue of the registered gift deed, the respondents 1 and 2 became the absolute owners and possessors of the said G+2 RCC building. The respondents 1 and 2 and their family members have collectively sold the said G+2 RCC building to the petitioners/proposed respondents 5 to 8 under four different registered sale deeds by dividing the entire extent into four parts.

(c) It is further pleaded that the appellant herein filed A.S.No.5 of 2016 on the file of III Additional District Court, Bhimavaram. The learned III Additional District Judge, Bhimavaram, dismissed the said appeal on 23-3-2019 confirming the judgment and decree dated 16-12-2015 in O.S.No.19 of 2009. Though the appellant herein was unsuccessful before both the Courts below, he did not vacate the property purchased by them and instead, he filed the present second appeal. Therefore, it is prayed to permit them i.e. proposed respondents 5 to 8 to come on record as respondents 5 to 8 in the second appeal.

3. The 1st respondent/appellant (sole defendant) filed a counter affidavit denying the material averments pleaded in the affidavit of the petitioners. The brief averments are as follows:

(a) It is contended that while the suit is pending, the plaintiffs and their family members alienated the suit schedule property in favour of the proposed respondents. The proposed respondents were having full knowledge about the pendency of the original suit, first appeal as well as the second appeal. In spite of having knowledge about the pendency of the above *lis*, the proposed respondents have not taken any steps to get themselves impleaded. Further, it is also not the case of the proposed respondents that they are not aware of the pendency of the above *lis*.

(b) It is further contended that the lease of the defendant was not expired and the alleged lease agreement was executed only for the limited purpose of obtaining bank loan. Further, the *lis* in respect of the lease and possession has not yet decided by the High Court and as such, since the appeal is a continuing of suit, there is no such question of continuing for a long period even after expiry is not correct. The aspect of handing over of possession to the implead petitioners has to be considered as a *lis* between the plaintiff and the implead petitioners.

(c) It is further contended that there is no nexus between the cause of action for the suit and the present proposed petitioners have no relation. Once the parties lost their strength or interest on the schedule properties, they cannot operate or continue to contest the matter on behalf of third parties. Further, no serious prejudice will be caused to the proposed respondents if this implead petition is dismissed and impleading the proposed respondents will also not do any justice to them. Therefore, it is prayed to dismiss the present application.

4. During the pendency of the second appeal before this Court, the 2nd respondent herein, who was the 1st respondent/1st plaintiff, died and his

legal representatives were brought on record as respondents 5 and 6 in the second appeal as per order dated 29-01-2025 in I.A.Nos.5 of 2024 in S.A.No.276 of 2019. The respondents 2 to 7/plaintiffs reported no counter.

5. Heard Sri A. Satya Prasad, learned Senior Counsel representing Sri Harinath Nidamanuri and Sri N. Bharath Simha Reddy, learned counsel for the petitioners/proposed respondents 7 to 10 and Sri Raviteja Padiri, learned counsel for the 1st respondent/appellant.

6. Now, the point for determination in the present application is:
Whether the petitioners are entitled to the relief as prayed for ?

7. Point:- The contention of the petitioners/proposed respondents is that they purchased the total plaint schedule property i.e. ground plus two floors RCC building from the respondents 1 and 2 and their family members under four registered sale deeds. In fact, the registration extracts of sale deeds were filed by the appellant/defendant before the trial Court and were marked as Exs.B-3 to B-6, dated 10-10-2010 i.e. during the pendency of the suit, but none of the parties to the suit have taken any steps to implead the petitioners either before the trial Court or before the first appellate Court. The purchasers during the pendency of the suit filed the present application under Order I, Rule 10 of C.P.C to implead them as parties to the second appeal.

8. The learned counsel for 1st respondent/defendant placed copy of an unreported judgment of the Apex Court in the case of **Sudhamayee Pattnaik v. Bibhu Prasad Sahoo**¹. The facts in that case law are that the defendants in the suit filed an application under Order I, Rule 10 of C.P.C and prayed to implead the subsequent purchasers as party defendants and the said suit is for the relief of declaration and consequential relief of recovery of possession and also for permanent injunction against the defendants. Further, the facts in the aforesaid case law are that the said application was

¹ Civil Appeal No.6370 of 2022, dated 16-9-2022

opposed by the plaintiff/appellant on the ground that the defendants 1 to 4 have no *locus standi* to file such an application. In the case on hand, the subsequent purchasers filed the application under Order I, Rule 10 of CPC to implead them as parties in the second appeal. The plaintiffs reported 'no objection' to allow the present application and the sole defendant opposed to allow the present application and he filed a counter affidavit. In fact, the case of the 1st respondent/sole defendant before the trial Court was that the petitioners/ subsequent purchasers during the pendency of the suit purchased the total plaint schedule property under four registered sale deeds dated 30-10-2010 and the registration extracts of sale deeds were filed by the appellant/1st respondent before the trial Court and were marked as Exs.B-3 to B-6. But, for the reasons best known to the appellant/defendant, he has not taken any steps to implead the subsequent purchasers as parties to the suit. As noticed supra, the plaintiffs also did not take any steps to implead the subsequent purchasers during the pendency of the suit as parties to the suit.

9. The learned counsel for 1st respondent/appellant (defendant) placed a reliance on a Full Bench judgment of the Punjab and Haryana High Court in the case of ***Notified Area Committee Buria, Tehsil Jagadhri, through its President v. Gobind Ram***², wherein it is held as follows:

“(1) that if a party to the original proceedings is not impleaded in appeal on account of a *bona fide* and honest mistake on the part of the appellant, the appellate Court has ample powers under Order XLI rule 20, Civil Procedure Code, to allow the mistake to be rectified and the party to be added;

(2) that section 107(2) read with Order I rule 10, Civil Procedure, Code, enables the appellate Court to add parties in appeals in suitable cases, but this power must be exercised within the period of limitation; and

(3) that apart from the provisions of Order XLI rule 20, Civil Procedure Code, the appellate Court has inherent powers to permit parties to be added to appeals in suitable cases and the language of rule 20 or Order XLI is not exclusive or exhaustive so as to deprive the appellate Court of the inherent powers in this respect.”

² 1959 (XII) ILR 1066

The facts in the aforesaid case law are that the application was opposed by the respondents who contended that the proposed party was no longer interested in the result of the appeal and could not be added as a party at the stage when the period of limitation was prescribed for filing an appeal against the decree in question had already run out. As noticed supra, the appellant/sole defendant contended before the Court below that the plaintiffs alienated the suit schedule property under four registered sale deeds during the pendency of the suit and those registration extracts of sale deeds are filed by the appellant/defendant before the trial Court and those are marked as Exs.B-3 to B-6. The appellant/defendant had taken a contention before the trial Court that the suit is not at all maintainable because the subsequent purchasers are not impeladed as parties by the plaintiffs. That contention of the appellant/defendant was disbelieved by the trial Court and decreed the suit and subsequently, the sole defendant/appellant filed an appeal and the first appeal was dismissed by the first appellate Court by confirming the findings given by the learned trial Judge. Pending the second appeal, the subsequent purchasers during the pendency of the suit have come up with the application under Order I, Rule 10 of CPC and now the second appeal is pending against the judgment and decree passed by the trial Court.

10. In the case of ***Amit Kumar Shaw v. Farida Khatoon***³, the Apex Court held as follows:

“15. Section 52 of the Transfer of Property Act is an expression of the principle “pending a litigation nothing new should be introduced”. It provides that *pendente lite*, neither party to the litigation, in which any right to immovable property is in question, can alienate or otherwise deal with such property so as to affect his appointment. This section is based on equity and good conscience and is intended to protect the parties to litigation against alienations by their opponent during the pendency of the suit. In order to constitute a *lis pendens*, the following elements must be present:

³ (2005) 11 SCC 403

1. There must be a suit or proceeding pending in a court of competent jurisdiction.
2. The suit or proceeding must not be collusive.
3. The litigation must be one in which right to immovable property is directly and specifically in question.
4. There must be a transfer of or otherwise dealing with the property in dispute by any party to the litigation.
5. Such transfer must affect the rights of the other party that may ultimately accrue under the terms of the decree or order.

16 [Ed.: Para 16 corrected vide Official letter dated 25-8-2005.] .

The doctrine of *lis pendens* applies only where the *lis* is pending before a court. Further pending the suit, the transferee is not entitled as of right to be made a party to the suit, though the court has a discretion to make him a party. But the transferee *pendente lite* can be added as a proper party if his interest in the subject-matter of the suit is substantial and not just peripheral. A transferee *pendente lite* to the extent he has acquired interest from the defendant is vitally interested in the litigation, where the transfer is of the entire interest of the defendant; the latter having no more interest in the property may not properly defend the suit. He may collude with the plaintiff. Hence, though the plaintiff is under no obligation to make a *lis pendens* transferee a party, under Order 22 Rule 10 an alienee *pendente lite* may be joined as party. As already noticed, the court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests. The court has held that a transferee *pendente lite* of an interest in immovable property is a representative-in-interest of the party from whom he has acquired that interest. He is entitled to be impleaded in the suit or other proceedings where his predecessor-in-interest is made a party to the litigation; he is entitled to be heard in the matter on the merits of the case.”

11. In the case of **A. Nawab John v. V.N. Subramaniam**⁴, the Apex Court held as follows:

“21. There is some divergence of opinion regarding the question, whether a *pendente lite* purchaser is entitled, as a matter of right, to get impleaded in

⁴ (2012) 7 SCC 738

the suit, this Court in *Amit Kumar Shaw v. Farida Khatoon* [(2005) 11 SCC 403] held that: (SCC p. 411, para 16)

“16. ... Further pending the suit, *the transferee is not entitled as of right to be made a party to the suit, though the court has a discretion to make him a party*. But the transferee pendente lite can be added as a proper party if his interest in the subject-matter of the suit is substantial and not just peripheral. A transferee pendente lite to the extent he has acquired interest from the defendant is vitally interested in the litigation, where the transfer is of the entire interest of the defendant; the latter having no more interest in the property may not properly defend the suit. He may collude with the plaintiff. Hence, though the plaintiff is under no obligation to make a *lis pendens* transferee a party, under Order 22 Rule 10 an alienee *pendente lite* may be joined as party. As already noticed, the court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests. *The court has held that a transferee pendente lite of an interest in immovable property is a representative-in-interest of the party from whom he has acquired that interest. He is entitled to be impleaded in the suit or other proceedings where his predecessor-in-interest is made a party to the litigation; he is entitled to be heard in the matter on the merits of the case.*” (emphasis supplied)

22. The preponderance of opinion of this Court is that a pendente lite purchaser's application for impleadment should normally be allowed or “considered liberally”.

12. In the case of ***Thomson Press (India) Ltd. v. Nanak Builders and Investors Pvt. Ltd.***⁵, the Apex Court held as follows:

“31. ... it is manifest that sub-rule (2) of Rule 10 gives a wider discretion to the court to meet every case or defect of a party and to proceed with a person who is either a necessary party or a proper party whose presence in the court is essential for effective determination of the issues involved in the suit.

13. In the case of ***Yogesh Goyanka v. Govind***⁶, the Apex Court held as follows:

⁵ (2013) 5 SCC 397

“16. The fulcrum of the dispute herein concerns the impleadment of a transferee *pendente lite* who undisputedly had notice of the pending litigation. At the outset, it appears pertinent to reiterate the settled position that the doctrine of *lis pendens* as provided under Section 52 of the Act does not render all transfers *pendente lite* to be void *ab initio*, it merely renders rights arising from such transfers as subservient to the rights of the parties to the pending litigation and subject to any direction that the Court may pass thereunder.”

14. In the case of **Renjith K.G. v. Sheeba**⁷, the Apex Court held as follows:

“15. In so far as the claim of appellants that the predecessor of the respondents, namely Mr. Raghuthaman, being *pendente lite* transferee and hence would have no *locus* to file the application seeking re-delivery, we have already held that “any person” not a party to the suit or in other words a stranger to the suit can seek re-delivery, after he has been dispossessed. The term “stranger” would cover within its ambit, a *pendente lite* transferee, who has not been impleaded. That apart, the facts in the present case disclose that the property stood transferred to the predecessor of the respondents before the Final Decree was passed in 1970. The fact that Mr. Raghuthaman had successfully resisted the claim of the 9th Defendant for delivery of possession, in the presence of the predecessor of the appellant is not disputed. While so, it was incumbent on the appellants to have impleaded the predecessor of the respondents by filing an application under Order 21 Rule 97 of CPC, when they resisted the delivery. The *pendente lite* purchaser has every right to defend his right, title, interest and possession. This Court recently while adjudicating the right of a *pendente lite* transferee held as under:

Yogesh Goyanka v. Govind, (2024) 7 SCC 524

“16. The fulcrum of the dispute herein concerns the impleadment of a transferee *pendente lite* who undisputedly had notice of the pending litigation. At the outset, it appears pertinent to reiterate the settled position that the doctrine of *lis pendens* as provided under Section 52 of the Act does not render all transfers *pendente lite* to be void *ab initio*, it merely renders rights arising from such transfers as subservient to the rights of the parties to

⁶ (2024) 7 SCC 524

⁷ 2024 SCC Online SC 2821

the pending litigation and subject to any direction that the Court may pass thereunder.

“17. Therefore, the mere fact that RSD was executed during the pendency of the underlying suit does not automatically render it null and void. On this ground alone, we find the impugned order to be wholly erroneous as it employs Section 52 of the Act to nullify RSD and on that basis, concludes that the impleadment application is untenable. Contrary to this approach of the High Court, the law on impleadment of subsequent transferees, as established by this Court has evolved in a manner that liberally enables subsequent transferees to protect their interests in recognition of the possibility that the transferor pendente lite may not defend the title or may collude with the plaintiff therein (see the decision of this Court in Amit Kumar Shaw v. Farida Khatoon [Amit Kumar Shaw v. Farida Khatoon, (2005) 11 SCC 403] & A. Nawab John v. V.N. Subramaniam [A. Nawab John v. V.N. Subramaniam, (2012) 7 SCC 738 : (2012) 4 SCC (Civ) 324]).”

In the case on hand, the petitioners i.e. the subsequent purchasers filed the present application to implead them as parties to the second appeal. The plaintiffs reported ‘no objection’ to allow the present application and the sole defendant filed the counter affidavit. In fact, the defendant himself filed certified copies of the sale deeds and those were marked as Exs.B-3 to B-6 before the trial Court. By the date of sale deeds, the defendant is in actual possession of the plaint schedule property as a tenant. The appellant/defendant pleaded before the trial Court that the suit is not maintainable since the plaintiffs in the suit are not added the subsequent purchasers as parties to the suit. The aforesaid contention of appellant was disbelieved by the trial Court and the same was disbelieved by the first appellate Court. The first appellate Court held in para-15 of the judgment that delivery of the property as mentioned in the sale deeds can be treated as a symbolic delivery. It is the admitted case of both the parties that either the plaintiffs or the defendant did not take any steps to add the petitioners as parties to the suit. **Section 52 of the Transfer of Property Act, 1882 protects the rights of subsequent purchasers. The rights of subsequent purchasers during the pendency**

of the case will not be changed, they can ultimately step into the shoes of original owner.

15. The law is well settled that a transferee *pendente lite* can be added as a proper party, if his interest in the subject matter of the suit is substantial and not just peripheral. Now, the second appeal against the judgment of the trial Court is pending. During the pendency of the second appeal, the transferees/*pendente lite* purchasers filed the application to add them as parties to the second appeal. The law is well settled by the Apex Court in **Nawab John's** case (4 *supra*) that "a *pendente lite* purchaser application for impleadment should normally be allowed or considered liberally".

16. Sub-rule (2) of Rule 10 of CPC gives a wider discretion to the Court to meet every case or defect of party and to proceed with a person who is either a necessary party or a proposed party whose presence in the Court is essential for effective determination of the issues involved in the suit. Now, the dispute between both the parties to the suit is pending. As stated *supra*, the second appeal is pending against the judgment and decree passed by the trial Court. In the second appeal, the *pendente lite* purchasers filed the present application under Order I, Rule 10 of CPC. The purchase of the property during the pendency of the suit by the petitioners herein is undisputed by both the parties. As stated *supra*, Section 52 of the Transfer of Property Act protects the rights of subsequent purchasers, the rights of the subsequent purchasers during the pendency of the suit will not be changed, they can ultimately step into the shoes of original owner. The law is well settled that an application filed by the *pendente lite* purchasers for impleadment should normally be allowed or considered liberally.

17. For the aforesaid reasons, if the petitioners are allowed to be impleaded as parties to the proceedings, no prejudice will be caused to either of the parties. Therefore, the present interlocutory application is allowed and the petitioners 1 to 4 herein are impleaded as respondents 7 to 10 in the

second appeal. Each party do bear their own costs in the application.

//TRUE COPY//

VENUTHURUMALLI GOPALA KRISHNA RAO,J

To,

- 1.BONDADA SREE RAMAKRISHNA PARAMAHAMSA DIED, S/O. LATE RANGA RAO, AGED ABOUT 71 YEARS, R/ O. DOOR NO.3-11-25, GALI VARI LAYOUT, BEHIND KISHORE TALKIES, BHIMAVARAM
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- 7.Two CD Copies

**HIGH COURT
VGKRJ
DATED:28/02/2025**

**ORDER
IA 1/2022
IN
SA 276/2019**