



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

[3332]

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 49/2025

Between:

1. KATEVARAPU VENATA PARAMESWARAR RAO, S/O
MADHUSUDHANA RAO, HINDU, AGED 47 YEARS, R/O H.NO.
5-16/8, FLAT NO. 103, HANUMA RESIDENCY, TAPOVAN PARK,
PUPPALAGUDA, MANIKONDA, HYDERABAD - 500089
TELANGANA.

...PETITIONER

AND

1. MOTURI VIJAYA SARADHI, W/O SANKARA RAO, AGED 47
YEARS, R/O D.NO. 41-12-20, GUNDU KOTAIAH STREET,
KRISHNALANKA, VIJAYAWADA.

2. K MADHUSUDHANA RAO, S/O PARABRAHMAM, AGED 71
YEARS, D.NO. 32-14-10 A. W.T-1, KANCHANA COMPLEX,
MOGALRAJPURAM, VIJAYAWADA.

3. K RAMALAKSHMI, D/O MADHUSUDHAN RAO, AGED 37
YEARS, D.NO. 32-14-10 A, W.T-1, KANCHANA COMPLEX,
MOGALRAJPURAM, VIJAYAWADA.

4. K ANURADHA, D/O MADHUSUDHAN RAO, AGED 35 YEARS,
D.NO. 32-14-10 A, W.T-1 KANCHANA COMPLEX -
MOGALRAJPURAM, VIJAYAWADA

5. K HYMAVATHI, D/O MADHUSUDHAN RAO, AGED 33 YEARS,
D.NO. 32-14-10 A, W.T-1, KANCHANA COMPLEX,

MOGALRAJPURAM, VIJAYAWADA.

6.K ANNAPURNA, W/O K. VENKATESWARARAO, AGED 71 YEARS, D.NO. 32-14-10 A, W.T-1, KANCHANA COMPLEX, MOGALRAJPURAM, VIJAYAWADA.

7.KAMIREDDY BABY, W/O K.S.RAMACHANDRARAO, AGED 60 YEARS, R/O D.NO. 32-14-10A, W.T-1, KANCHANA COMPLEX, MOGALRAJPURAM, VIJAYAWADA. PRESENTLY RESIDING AT RAMAVARAPPADU, VIJAYAWADA.

...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 set- aside the order passed in I.A.No.414 of 2023 in O.S.No.131 of 2014, dated 14/06/2023 on the file of the Hon'ble VII Additional District Judge, Vijayawada, in the interest of justice and pass

IA NO: 1 OF 2025

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 condone the delay of 257 days of representation of the CRP and pass

IA NO: 2 OF 2025

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 stay all the further proceedings in O.S.no. 131/2014 on the file of the Hon'ble VIII Additional District Judge, Vijayawada, and pass

Counsel for the Petitioner:

1.PONNADA SREE VYAS

Counsel for the Respondent(S):

1.V N S L SASIDHAR V

2.D BUTCHI BABU

The Court made the following:**ORDER:**

Assailing the correctness and legality of the orders passed in I.A.No.414 of 2023 in O.S.No.131 of 2014 by the VIII Additional District Judge, Vijayawada, dated 14.06.2023, the present Civil Revision Petition is filed.

2. The facts that led to filing of this Civil Revision Petition are that the petitioner is defendant No.1, respondent No.1 is the plaintiff and respondent Nos.2 to 7 are Co-defendants in O.S.No.131 of 2014 filed for cancellation of preliminary & final decree and for granting permanent injunction. In the said suit, the revision petitioner was set *ex parte* on 16.02.2015 for not filing written statement, accordingly, I.A.No.414 of 2023 under Order IX Rule 7 and under Section 151 of CPC has been filed praying the Court to set aside the *ex parte* order dated 16.02.2015. Respondent No.1/plaintiff filed counter opposing the said application, duly contending that the revision petitioner is not diligent in prosecuting the case only to drag on the matter, which amounts to abuse of legal procedure and prayed to dismiss the said application. The Court below, upon hearing the parties, dismissed the said I.A. Assailing the same, the present Civil Revision Petition has been filed.

3. Heard Sri Ponnada Sree Vyas, learned counsel for the petitioner and Sri D.Butchi Babu, learned counsel for the respondent No.1. No

representation on behalf of Sri V.N.S.L.Sasidhar V, learned counsel for respondent No.7.

4. Learned counsel for the petitioner in elaboration to what has been stated in the affidavit filed in support of the Interlocutory Application before the Court below and the grounds of revision submitted that, the Court below failed to see the purport of Order IX Rule 7 in right perspective and thereby erroneously dismissed the petitioner's application. The Court below further failed to see the involvement of the rights of the petitioner in the suit, wherein the said suit has been filed to cancel the preliminary decree passed in a suit *vide* O.S.No.946 of 1999 dated 20.12.1999 and final decree in I.A.No.113 of 2000 dated 23.02.2001 that too in the year 2014, i.e., after lapse of 13 years. He further submitted that the Court below ought to have given one more fair opportunity to the petitioner for filing written statement. If his written statement is not taken on record and opportunity to cross examine the parties, the valuable rights got by virtue of the preliminary decree and final decree proceedings will be affected. In the said view of the fact, prayed to allow the CRP and consequently, I.A.No.414 of 2023.

5. On the other hand, Sri Butchi Babu, learned counsel for respondent No.1/plaintiff submitted that the Court below after taking into consideration the entire material available on record and the facts and circumstances of the case, has rightly dismissed the application. The

petitioner has not raised any valid grounds warranting interference of this Court and Civil Revision Petition being meritless prayed to dismiss the same.

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

7. In a suit filed for cancellation of preliminary decree dated 20.12.1999 in O.S.No.946 of 1999 and final decree dated 23.02.2001 in I.A.No.113 of 2000, respondent No.1 filed a suit in O.S.No.131 of 2014. In the said suit, the petitioner herein is defendant No.1 and he was set *ex parte* on 16.02.2015 on the ground that he failed to file written statement. To set aside the said *ex parte* order, he filed I.A.No.414 of 2023 on 13.03.2023. The Court below, through a cryptic order, dismissed the said application on the ground that as the petitioner has failed to file petition to condone the delay or explained the delay. In fact, no application needs to be filed for condonation of delay. The Court below has to see whether the petitioner has filed Order IX Rule 7 application within a reasonable time.

8. Even otherwise, the law is well settled that merely because he was set *ex parte*, the limited right available to him is not confined to a narrow scope. He can always cross-examine the witnesses examined by the plaintiff so as to test the veracity and correctness of the plaintiff's case. He can also challenge the evidence adduced by the plaintiff and contend that the suit is not maintainable. Further, a petition can be filed to set

aside the *ex parte* order, notwithstanding the earlier order to proceed *ex parte*. Therefore, while deciding the application for striking out the defence, it would be appropriate for the Court to give an opportunity of hearing to the defendants.

9. The reason mentioned for not filing written statement in time is that the revision petitioner is a private employee and could not attend the Court and file written statement. Except for that, no other reasons were stated so. Further, as can be seen from the record, the said application came to be filed after a lapse 13 long years.

10. This Court is cautious about that the length of delay should not be looked into but whether the parties showed due diligence in not filing the written statement in time. The reasons envisaged in the affidavit for not filing written statement in time are not convincing. The Court below ought to have permitted the petitioner to cross examine the PW1. He can as well be permitted to render arguments at final disposal of the suit. For this limited purpose, to meet the ends of justice, this Court is inclined to consider and protect the petitioner's rights by passing the following order:

- i. The trial Court is directed to fix a particular date to the petitioner to cross examine PW1.
- ii. Permit the petitioner to submit his arguments in the suit.

It is brought to the notice of this Court that PW2 was examined but now he is no more.

11. With this limited direction, the Civil Revision Petition is ***partly allowed***. There shall be no order as to costs.

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

JUSTICE RAVI CHEEMALAPATI

Date: 22nd April, 2026

RKS