

[3233]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
FRIDAY, THE TWENTY FOURTH DAY OF APRIL

TWO THOUSAND AND TWENTY SIX

:PRESENT:

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

SECOND APPEAL NO: 257 OF 2026



Between:

1. Kare Salamma, (Died)
2. Kare Venkata Ramudu, S/o. Late Kare Chinna Polaiah, aged 51 years, Occ. Business, R/o. H. No. 4-191, Venkataramana Colony, Kurnool Town and Mandal, Kurnool District - 518 006.

Appellants/Respondents 2 & 3/Defendants 2 & 3

AND

1. Kare Rajulaiah, S/o. Late Kare Chinna Pullaiah, aged 30 years, Occ. Cultivation, R/o. Mustapalii Village, H/o. Siddepalli Village, Atmakur Mandal, Kurnool District - 518 442.
2. Kare Rajeswari, D/o. Late Kare Chinna Pullaiah aged 29 years. Student, R/o. Mustapalii Village, H/o. Siddepalli Village, Atmakur Mandal, Kurnool District - 518 442.

Respondents/Appellants/Plaintiffs

3. Kare Lakshmi Devi, W/o. Late Kare Chinna Pullaiah, aged 56 years, Occ. Cultivation, R/o. Mustapalii Village, H/o. Siddepalli Village, Atmakur Mandal, Kurnool District - 518442.
4. Battula Gangamma, , W/o. B. Narayana, aged 56 years, R/o. H. No. 4-191, Mamatha Nagar, Sri Venkataramana Colony, Road No. 4, Kurnool City, Kurnool District - 518 006.

3rd respondent is not necessary party to this appeal and since no relief is claimed

Respondent/Respondent No.4

Second Appeal under Section 100 CPC being aggrieved by the Decree and Judgment dt.05.02.2026 passed in A.S No. 101 of 2019 on the file of Court of Learned Principal District Judge, Kurnool, allowing the appeal, thereby setting aside the Decree and Judgment dt.28.06.2019 passed in O.S. No.110 of 2014 on the file of Court of Learned Senior Civil Judge, Atmakur,

IA NO: 1 OF 2026

Petition under Order 41 Rule 5 of 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 execution of the Judgment and Decree dt. 05.02.2026 passed in A.S. No. 101 of 2019 on the file of the court of Learned Principal District Judge, Kurnool, whereby Judgment and Decree dt. 28.06.2019 passed in O.S. No. 110 of 2014 on the file of the Court of the Learned Senior Civil Judge, Atmakur was set aside, Pending disposal of SA 257 of 2026, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of MS. NIMMAGADDA REVATHI Advocate for the Petitioner, SRI RAJA BHOGENNDRA NATH S Advocate for the Respondent and the Court made the following

ORDER

“Heard the learned counsel for the appellant and Sri S.Raja Bhogendra Nath, learned counsel takes notice for the respondents to file counter.

This second appeal is filed against the judgment dated 05.02.2026 in A.S.No.101 of 2019 on the file of Principal District Judge, Kurnool reversing and setting aside the judgment of the Senior Civil Judge court, Atmakur in O.S.No.110 of 2014 dated 28.06.2019.

The substantial questions of law would arise for consideration in this second appeal are:

i) Whether the suit for declaration of title and recovery of possession is maintainable without seeking the relief of setting aside or cancellation of the prior decree in O.S.No.80 of 2002?

ii) Whether the First Appellate Court erred in holding that Article 65 of the Limitation Act applies to the present suit on the ground that the plaintiffs were minors at the time of earlier decree, without appreciating that the suit is not maintainable without seeking the relief of declaration to set aside or cancel the decree in O.S.No.80 of 2002 and therefore Article 65 does not apply and the suit is therefore governed by Article 59 of the Limitation Act, which prescribes a period of three years?

iii) Whether the First Appellate court erred in reversing the well reasoned findings of the trial court and decreeing the suit without appreciating that Ex.A11 gift deed was not proved in accordance with the law by examining its attesters, as required under Section 68 of the Indian Evidence Act?

iv) Whether the judgment of the lower appellate court is perverse in reversing the judgment and decree of the trial court while appreciating the pleadings and evidence on record.

There shall be an order of *status quo* as on today to be maintained with respect to the suit schedule property covered under the second appeal pending further orders.

List on 19.06.2026"

SD/- T. SRINIVASA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

For

SECTION OFFICER

To,

1. The Principal District Judge, Kurnool
2. The Senior Civil Judge, Atmakur

3. Kare Rajulaiah, S/o. Late Kare Chinna Pullaiah, aged 30 years, Occ. Cultivation, R/o. Mustapalii Village, H/o. Siddepalli Village, Atmakur Mandal, Kurnool District - 518 442.
4. Kare Rajeswari, D/o. Late Kare Chinna Pullaiah aged 29 years. Student, R/o. Mustapalii Village, H/o. Siddepalli Village, Atmakur Mandal, Kurnool District - 518 442.
5. Battula Gangamma, , W/o. B. Narayana, aged 56 years, R/o. H. No. 4-191, Mamatha Nagar, Sri Venkataramana Colony, Road No. 4, Kurnool City, Kurnool District - 518 006. (3 to 5 by RPAD)
6. One CC to MS NIMMAGADDA REVATHI Advocate [OPUC]
7. One CC to SRI. RAJA BHOGENDRA NATH S Advocate [OPUC]
8. **One spare copy**

HIGH COURT

BKM,J

DATED:24/04/2026

LIST ON 19.06.2026

ORDER

SA.No.257 of 2026

STATUS QUO

