

APHC010235642025



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

[3328]

**TUESDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

SECOND APPEAL NO: 367/2025

Between:

1. PEDADA @ PEDDA RAMA RAO, S/O. GEDDAYYA AGED ABOUT 78 YEARS, AGRICULTURE, R/O. DOOR NO.4-67, MULASAVALAPURAM VILLAGE, SARUBUJJILI MANDAL, SRIKAKULAM DISTRICT.

...APPELLANT

AND

1. PONNADA SIMHACHALAM, S/O. THAVUDU, AGED ABOUT 48 YEARS, R/O. DOOR NO.4-1-126, BODDEPALLIPETA VILLAGE WARD NO.4, AMADALAVALASA MUNICIPALITY, SRIKAKULAM DISTRICT.

...RESPONDENT

Counsel for the Appellant:

1. SARIPALLI SUBRAHMANYAM

Counsel for the Respondent:

1. T. DIWAKAR REDDY

The Court made the following:

ORAL JUDGMENT:

Heard Sri Saripalli Subrahmanyam, learned Counsel for the Appellant and Sri T. Diwakar Reddy, learned Counsel for the sole Respondent.

2. This Second Appeal is preferred by the Plaintiff. The Plaintiff/Appellant herein has filed O.S.No.177/2015 seeking Permanent Injunction. *Vide* Judgment and Decree dated 25.07.2016, the Principal Civil Judge (Junior Division), Srikakulam was pleased to dismiss the Suit without costs. Aggrieved by the dismissal of the Suit, the Plaintiff preferred the First Appeal bearing A.S.No.110/2019 before the Additional Civil Judge (Senior Division), Srikakulam. The Plaintiff/Appellant herein, has also filed I.A.No.119/2024 in A.S.No.110/2019 under Order XLI Rule 27 seeking to place on record additional documents. The First Appellate Court, after having considered the First Appeal as well as the documents filed by the Plaintiff/Appellant herein in I.A.No.119/2024 under Order XLI Rule 27, was pleased to dismiss I.A.No.119/2024 as well as the Appeal Suit bearing A.S.No.110/2019 *vide* Order dated 04.11.2024. The Order dated 04.11.2024 is now under challenge in the present Second Appeal.

3. Learned Counsel for the Appellant has taken this Court through the reasoning given by the trial Court as well as the First Appellate Court. The Court of Principal Civil Judge (Junior Division), Srikakulam, in the Suit bearing O.S.No.177/2015, has held as under:

“Even with regard to providing the possession of plaintiff over the plaint schedule property, though he got marked Ex.A1, which is of the year 2002, but the entries revealed thereon discloses that only Ac.3.70 Cents was under his cultivation by disclosing the name of one Kanukurthi Rukmini and Kanukurthi Sudarsana Rao as pattadars for the land in Survey No.1. The said extent of land revealed under Ex.A.1 is not matching with any of the item shown in the plaint schedule, so also the survey number. Apart from that, plaintiff also got marked four land revenue receipts under Ex.A.2 disclosing that different persons have paid land revenue for different extents of land covered by Survey No.47/1 in the year 2012 and 2013, which includes the name of plaintiff

disclosing the payment of land revenue for Acre 2.00 Cents of land in Survey No.49, which was shown as Item No.2 of plaint schedule property and the said payment was made by him on 09.06.2013. Remaining three land revenue receipts stands in the name of different persons might be the family members of plaintiff. But, none of the land revenue receipts disclosing either the extent or the survey numbers, which is in accordance with any of the item of plaint schedule property herein.

So, it is clear that, absolutely plaintiff did not file any scrap of paper disclosing his possession and enjoyment over the plaint schedule property as on the date of filing of the suit in the year 2015. Moreover, the documents that were relied upon by him not supporting his version regarding the extent of the land purchased by him and his family members or regarding the extent and survey numbers of the lands in the possession of plaintiff and his family members.

So, in these circumstances as plaintiff failed to establish the correctness of schedule furnished by him, as well as his right and possession over the said property as on the date of filing of the suit, I hold that he is not entitle for the equitable relief of permanent injunction as prayed for. Accordingly, point is answered in negative against plaintiff and answered in favour of defendant.”

4. The above extract would clearly indicate that the trial Court had considered all the documents threadbare and had categorically held that the Plaintiff had failed to prove that he is in possession of the Suit Schedule Property. It is also stated that the Plaintiff had failed to file even a scrap of paper disclosing his possession and enjoyment over the Suit Schedule Property as on the date of filing of the Suit.

5. Learned Counsel for the Respondents has taken this Court through the findings rendered by the First Appellate Court in I.A.No.119/2024 as well A.S.No.110/2019. Learned Counsel for the Respondents has drawn the attention of this Court to paras 19 to 22 of the Order of the First Appellate Court wherein, the First Appellate Court has considered the documents filed by the Petitioner under Order XLI Rule 27 of C.P.C and had categorically held that the Appellant did not produce enough documents except A1 and A2 and

such of those documents bearing Exs.A1 and A2 do not at all prove the possession of the Appellant over the Suit Schedule Property as on the date of filing of the Suit. The First Appellate Court has also recorded a finding that the trial Court had given ample opportunity to the Plaintiff/Appellant herein for production of documents to prove the case but the Plaintiff did not avail that opportunity and therefore, at the Appellate stage, such documents which were already available with the Petitioners cannot be permitted. Finding of the First Appellate Court in its Order dated 04.11.2024 is usefully extracted hereunder:

“Applying the law laid down by the Hon’ble Apex Court in the aforesaid decisions to the facts of the present case, where the Appellant has preferred the suit for permanent injunction, therefore the Appellant ought to have produced the relevant documents to show his possession over the suit schedule property at the relevant time. But Appellant did not produce enough documents except Ex.A1 and Ex A2 and which not at all prove the possession of the Appellant over the suit schedule property as on the date of suit. Further the trial Court had given ample opportunity for production of documents for the Appellant to prove their case with cogent evidence, but he did not avail the opportunity and at this Appellate stage the Appellant wants to produce the documents which are not at all concerned to the period of suit pending before the trial Court. Further it is unfathomable to ascertain the documents sought to be produced, how does it to have bearing upon the decision of this Appellate Court when the property was purchased through Sale Agreement, which was not at all filed and even no Sale Deed got executed by the Appellant so far. Moreover, as per the affidavit filed in the document petition in IA.119/2024 wherein he categorically stated that he along with his sons and daughter are in physical possession and enjoyment over the suit schedule property. But his sons and daughters are not the parties before the trial Court or before this Appellate Court. So, the proposed documents cannot be received as evidence and even if these documents appears to be produced only to cover the lacuna and latches on the part of the Appellant which cannot be permitted and it is also made clear that there are condition precedent before allowing a party to adduce any additional evidence at this stage of Appeal which specifically incorporate conditions to that effect that the party inspite of due diligence could not produce the evidence and the same cannot be allowed to

be done at his leisure or sweet will. Thus, this Court finds no grounds to allow the application in IA 119/2024.”

6. Learned Counsel for the Plaintiff/Appellant has also taken this Court through the questions of law raised by the Appellant.

7. Having considered the facts, which are recorded hereinabove as well as the questions of law, this Court is of the view that the findings rendered by the Courts below are cogent and no interference is called for. This Court is also of the view that the questions of law raised by the Appellant herein are also not germane. Accordingly, this Second Appeal is dismissed. No order as to costs.

8. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt:11.11.2025

Vns