

APHC010419162023



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

[3332]

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

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 2034/2023

Between:

1. PILLA DURGA PRASAD, S/O VARAHALARAO, AGED 56 YEARS, PROPRIETOR, M/S ADITYA MOTORS, D.NO.5-7/8-56/76A, RAJIV SARMA NAGAR, BEHIND SOWMYA THEATRE AND SAI RAM THEATRE, VIJAYAWADA.520 001, AP.

...PETITIONER

AND

1. DOGIPARTHI VENKATA SATISH, S/O LATE POORNACHANDRARAO, AGED 43 YEARS, R/O VENKATA ENCLAVE, FLAT NO.8, 3RD FLOOR, 1/5, RAMANNAPET, GUNTUR.

2. DOGIPARTHIVENKATAHANUMATH KISHORE, S/O LATE POORNACHANDRARAO, AGED 44 YEARS, REP BY HIS GPA HOLDER, MR D.V.SATISH, R/O VENKATA ENCLAVE, FLAT NO.8, 3RD FLOOR, 1/5, RAMANNAPET, GUNTUR

3. M/S ASSOCIATED AUTO SERVICE PVT LTD, , REP BY MADHAVI D/O GALIBENERJEE, HINDU, AGED 48 YEARS, C/O R.M. MOTORS, OPP. GATEWAY HOTEL, VIJAYAWADA.

4. KORRAPATI ANKINEEDU PRASAD, DIRECTOR, M/S ASSOCIATED AUTO SERVICE PVT LTD., AGED 50 YEARS, DATTISIMHADRI STREET, 39-14-12, LABBIPET, VIJAYAWADA.

5. PALADUGUSURENDRA, DIRECTOR, M/S ASSOCIATED AUTO SERVICE PVT. LTD., AGED 48 YEARS, 6 22/11, F.9, ARJUN APARTMENTS, EAST POINT COLONY, VISAKHAPATNAM.

...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 toAggrieved by the Docket Order dated 02/08/2023 and further orders passed by the Court of IV Addl. District and Sessions Judge, Guntur in O.S.No.118 of 2012

IA NO: 1 OF 2023

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 pleased to dispense with filing of Certified copy of the order dated 02/08/2023 in O.S.No.118 of 2012 on the file of Court of IV Addl. District and Sessions Judge, Guntur, pending disposal of above Revision Petition and pass

IA NO: 2 OF 2023

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 pleased to grant stay of all further proceedings in the suit O.S.No.118 of 2012 on the file of Court of IV Addl. District and sessions Judge, Guntur, pending disposal of above Civil Revision Petition, and pass

Counsel for the Petitioner:

1.S N CHIDAMBARA SASTRY

Counsel for the Respondent(S):

1.V DYUMANI

The Court made the following:

ORDER:

Assailing the correctness and legality of the docket order dated 02.08.2023 passed by the learned IV Additional District Judge, Guntur, in O.S.No.118 of 2012, the present Civil Revision Petition came to be filed.

2. The brief facts that lead to filing of the revision are that the petitioner is the defendant No.1 and the respondent Nos.1 and 2 are the plaintiffs and respondent Nos.3 to 5 are defendant Nos.2 to 4 in a suit filed for eviction and for delivery of vacant possession of the schedule property, and for payment of amounts towards use and unauthorized occupation of the premises, apart from arrears. In the said suit, the plaintiffs got filed I.A.No.1012 of 2016 under Order XV-A read with Section 151 of Civil Procedure Code, seeking a direction to the defendants to deposit the admitted rent into the Court and strike off their defence in the event of non-deposit of admitted arrears of rent as sought by the plaintiffs. The Court below allowed the same thereby directed the defendants to deposit certain amounts towards arrears of rent by fixing time. As the defendants failed to deposit the entire amount, the learned IV Additional District and Sessions Judge, by docket proceedings dated 02.08.2023, struck off the defence. Questioning the same, the present revision came to be filed.

3. Heard Sri SS Prasad, learned Senior Counsel assisted by Sri Sasidhar Vemuri, learned counsel for the revisionist and Ms.V.Dyumani, learned counsel for respondent Nos.1 and 2.

4. Learned Senior Counsel contended that assailing the correctness and legality of the orders passed by the Court below in I.A.No.1012 of 2016, the petitioner filed C.R.P.No.868 of 2022 before this Court, wherein this Court, while granting stay, directed the revision petitioner to deposit 25% of the amount as directed by the Court below and granted some time for compliance. Later, the said amount was deposited and applications were filed seeking extension of time for deposit of the remaining 75%. However, despite best efforts, the amount could not be deposited as the amount involved was huge and the Court below struck off the defence. It is further contended that a review petition has also been filed before this Court against the orders passed in C.R.P.No.868 of 2022 and the same is pending consideration. In the meantime, the defence has been struck off. Merely because the petitioner's defence was struck off, it does not mean that the parties doors of participation in the proceedings are closed. The revision petitioner can still cross examine witnesses examined on behalf of the plaintiffs and participate in the arguments at the final stage.

5. Learned Senior Counsel further submitted that after docket proceedings dated 02.08.2023, the matter was posted on 16.08.2023 and thereafter adjourned the matter to 23.08.2023, observing that a decree for eviction would be passed and that the defendants would not be permitted to participate in the proceedings on the ground that their defence had been struck off. The expression of the Court below in that regard shows that it would not permit the review petitioner to participate in the trial by cross examining the plaintiff's

witnesses or advancing arguments. In the said facts and circumstances of the case, he prayed to pass appropriate orders protecting the interest of the revision petitioner. Learned Senior Counsel relied upon the Judgment in ***Ranjit Singh & Another V/S State of Uttarakhand & Others***¹.

6. On the other hand, learned counsel for the respondents contended that despite granting time on various occasions, the defendants failed to deposit the admitted amounts as directed by the Court below. The defendants were also unsuccessful in revision filed against the order passed in I.A.No.1012 of 2016. Further, they approached the Hon'ble Apex Court by filing a Special Leave Petition and to her knowledge, the same was also dismissed. No doubt, the arguments advanced by the learned Senior Counsel that the defendant's doors are not closed and they can be permitted to cross examine the plaintiffs' witnesses. In support of her contention, she relied on the Judgment of Hon'ble Apex Court in ***Modula India v. Kamakshya Singh Deo***², wherein certain guidelines were framed and prayed to observe the said Judgment while passing orders in the present revision.

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

8. It is not in dispute that, in a suit for eviction, the plaintiffs got filed I.A.No.1012 of 2016 under Order XV-A of Civil Procedure Code seeking a direction to the defendants to deposit the admitted amounts towards rents and damages and that was allowed. The said order was confirmed by this Court in

¹ 2024 LawSuit(SC) 864

² AIR 1989 SC 162

C.R.P.No.868 of 2022. As contended by the learned Senior Counsel, a review petition against the said order is pending adjudication. As there was no stay, the Court below proceeded with the suit and as the revision petitioners failed to deposit/comply with the orders passed in I.A.No.1012 of 2016, struck off their defence by impugned docket proceedings dated 02.08.2023.

9. As could be culled out from the submissions made and the facts of the case, the reason for filing the present civil revision petition is that the Court below expressed that it would not allow the defendants to participate in the trial, cross examine the witnesses, or advance arguments in the suit. However, there are no proceedings to that effect in the impugned docket proceedings. Even if the version of the petitioner is taken into consideration, the law is well settled that mere striking off the defence does not preclude the parties from contesting the suit for the limited purpose of cross examining the plaintiffs' witnesses and advancing arguments.

10. The Judgments relied upon by the learned Senior Counsel for the petitioner and the learned counsel for the respondents lay down well settled principles of law and they can be taken into consideration while giving directions to the Court below. This Court is not inclined to go into other aspects touching upon the merits of the case, as they are not germane for the purpose of giving directions in the present Civil Revision Petition.

11. With the consent of both the parties, the Civil Revision Petition is disposed of by passing the following order:-

“The Court below is directed to permit the petitioner/defendant to cross examine the witnesses examined on behalf of the plaintiffs to prove the falsity of the plaintiffs’ case and also permit him to advance arguments based on the plaint averments and the evidence adduced by the plaintiffs.”

12. At this juncture, learned counsel for the respondents submitted that suit is of the year 2012 and sought a direction to the Court below to dispose of the suit in an expeditious manner.

13. This Court is conscious about the directions of the Hon’ble Apex Court; however, the Hon’ble Apex Court has held that such directions can be given only in extraordinary situations. As the suit is very old, in the said view of the matter, the same can be treated as an extraordinary situation and this Court is inclined to direct the Court below to decide the suit as expeditiously as possible. There shall be no order as to costs.

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

Date: 23rd April, 2026
JLV

JUSTICE RAVI CHEEMALAPATI

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 2034/2023

Date: 23rd April, 2026
JLV