



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

[3333]

THURSDAY, THE ELEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL REVISION PETITION NO: 2743/2024

Between:

1. NEKKANTI ADINARAYANA, S/O. LATE CHANCHA RAO, HINDU,
MALE, AGED ABOUT 61 YEARS, OCC BUSINESS, R/O. AKKUPALLI
GOKAVARA, UNGUTUR MANDAL, WEST GODAVARI DISTRICT.

...PETITIONER

AND

1. TAMMINEEDI VENKATA RAODIED, (DIED).
2. TAMMINEEDI NAGESWARA RAO, S/O. LATE VENKATA RAO
HINDU, MALE, AGED 63 YEARS, OCC CULTIVATION, R/O.
GOKAVARAM, UNGUTUR MANDAL, WEST GODAVARI DISTRICT.
3. TAMMINEEDI SATTEMMA, D/O. LATE VENKATA RAO HINDU,
FEMALE, AGED 55 YEARS, OCC CULTIVATION R/O. GOKAVARAM,
UNGUTUR MANDAL, WEST GODAVARI DISTRICT.
4. TAMMINEEDI RAMBABU, S/O. LATE VENKATA RAO HINDU, MALE,
AGED 52 YEARS, OCC CULTIVATION, R/O. GOKAVARAM,
UNGUTUR MANDAL, WEST GODAVARI DISTRICT.
5. TAMMINEEDI SESHIAH, (DIED)
6. TAMMINEEDI ABBIRAJU, S/O. LATE SESHIAH HINDU, MALE,
AGED 59 YEARS, OCC CULTIVATION, R/O.
VENKATESWARANAGARAM, RAJANAGARAM POST, DORNIPADU
MANDAL, KURNOOL DISTRICT.
7. NEKKANTI SATYAVATHI, W/O. VENKATA RAO, HINDU, FEMALE,

AGED 64 YEARS. HUSBANDS PROTECTION, R/O. ACHANTA, WEST GODAVARI DISTRICT.

8.MANNE CHANDRA, W/O. VENKATA RAO, HINDU, FEMALE, AGED 62 YEARS. HUSBANDS PROTECTION, R/O. VENKATESWARA NAGARAM RAJANAGARAM POST, DORNIPADU MANDAL

9.PARVATANENI SURYA PRAKASA RAO, S/O. VENKANNA HINDU, MALE, AGED 64 YEARS, OCC CULTIVATION UNGUTUR MANDAL, WEST GODAVARI DISTRICT.

...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 Order in I.A.No. 1363 of 2019 In FDIA. No 281 of 2002In O.S.No. 28 of 1979 dated 21-08-2024 on the file of the Court of Principal Civil Judge (Senior Division), Eluru, West Godavari District and the petitioner begs to present the CRP among other.

IA NO: 1 OF 2024

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 further proceedings in FDIA No.281 OF 2022 IN OS.No. 28 of 1979 on the file of the Court of Principal Civil Judge (Senior Division), Eluru pending disposal of the above CRP and be pleased to 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 vacate the interim stay orders, dated 22.11.2024 (Twenty Second day of November Two Thousand Twenty Four) and passed in IA.No.01/2014 in CRP.No.2743/2024, on the file of this Hon'ble Court in the ends of justice 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 extend the stay granted on 22-11-2024 and 10-01-2025 in CRP. NO. 2743/2024 till the disposal of main CRP and be pleased to pass

Counsel for the Petitioner:

1.M V SURESH

Counsel for the Respondent(S):

1.C VENKAIAH

2.

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

The Civil Revision Petition is filed against the order dated 21.08.2024 in I.A.No.1363 of 2019 in FDIA.No.281 of 2002 in O.S.No.28 of 1979 passed by the Principal Civil Judge (Senior Division), Eluru, dismissing the petition filed under Order I Rule 10 CPC to implead the petitioner as 6th respondent in FDIA.No.281 of 2002.

2. The revision petitioner herein is a third party to the final decree proceedings in FDIA.No.281 of 2002 and the respondents 1 to 4 herein are the plaintiffs and the other respondents are defendants in O.S.No.28 of 1979.

3. For the sake of convenience, the parties will be referred to as they are arrayed before the Court below.

4. It is the case of the revision petitioner is that his father by name Nekkanti Chancha Rao purchased land an extent of Ac.5.72 cents out of Ac.11.84 cents in R.S.No.245 and another land an extent of Ac.0.50 cents in R.S.No.272/7 of Sattala Village, Dwaraka Tirumala mandal from the deceased plaintiff-Tammineedi Venkata Rao and his wife Satyavathi, and their son under a Possessory Sale Agreement dated 04.03.1983 and since then, he was in possession and enjoyment of the same with absolute rights. His father filed O.S.No.170 of 2011, on the file of the Court of Principal Civil Judge (Junior Division), Eluru, for specific performance of agreement of sale. Later, the said suit was transferred to the Court of Civil Judge (Junior Division), Bhimadole and re-numbered as O.S.No.223 of 2014. During pendency of the

said suit, his father died and the petitioner was impleaded as 2nd plaintiff being the legal representative of his father, in the said suit and defendants 3 to 5 therein were recognized as legal representatives of deceased 1st defendant, who is the 1st respondent herein. After an elaborate trial, accepting the sale agreement by its judgment and decree dated 08.11.2018, the trial Court granted alternative relief of refund of money. Aggrieved by the said judgment and decree, the revision petitioner filed A.S.No.154 of 1998 before the learned VII Additional District Judge, Eluru.

5. The revision petitioner filed I.A.No.1363 of 2019 in final decree proceedings in F.D.I.A.No.281 of 2002 in O.S.No.28 of 1979, on the ground that his father was a bonafide purchaser of Item-1 of the suit schedule property in O.S.No.28 of 1979 and they are in lawful possession and enjoyment of the same. F.D.I.A.No.281 of 2002 was filed by suppressing all these facts and sought for partition of the properties including the property purchased by the father of the revision petitioner herein and that he is entitled to claim equities and request to allot the property to him, being the legal representative of his father, and therefore, he is necessary and proper party to the final decree proceedings. The Executing Court, by its order dated 21.08.2024, dismissed the said petition, holding that the revision petitioner is not at all a necessary party to FDIA.No.281 of 2002, for the reason that the relief of specific performance claimed by him in O.S.No.223 of 2014 was dismissed by granting alternative relief of refund money, and that no stay of passing of final decree in FDIA.No.281 of 2002 was obtained in the pending

appeal filed by him against the judgment and decree passed in O.S.No.223 of 2014. Assailing the said decree and order, the present Civil Revision Petition came to be filed.

6. When this matter came up for admission on 22.11.2024, this court passed the following interim order:

“..... Post on 27.12.2024.

Till then, passing of final decree in FDIA No.281 of 2022 in O.S.No.28 of 1979 on the file of the Court of the Principal Civil Judge (Senior Division), Eluru alone is stayed and other proceedings may go on.”

Thereafter, the said interim order has been extended from time to time.

7. Heard Sri M.V. Suresh, learned counsel for the revision petitioner and Sri Chalasani Venkaiah, learned counsel for the respondents.

8. Learned counsel for the revision petitioner submits that the Court below grossly erred in dismissing the petition and it ought to have seen that the petitioner is a proper and necessary party for adjudication of the issues involved in the final decree proceedings in O.S.No.28 of 1979. He submits that even though the relief of specific performance of an agreement of sale entered by the father of the petitioner was negated by the trial Court as well as the lower Appellate Court, still the same is subject matter of S.A.No.599 of 2024, filed by the petitioner against the judgment of the Appellate Court, as such, the court below ought to have allowed the petition to do substantial justice to the petitioner herein. He further submits that in a suit for partition, the persons who have right over the properties can come on record even in a final decree proceedings to workout equities and no prejudice will be caused to the contesting respondents herein in the event of the petition being allowed.

9. On the other hand, learned counsel for the contesting respondents submits that when the relief of specific performance of agreement of sale sought by the father of the revision petitioner was negated by the trial Court as well as the Appellate Court, the revision petitioner is not at all entitled to be impleaded as a party respondent in the final decree proceedings, more so, there was no stay of passing of final decree was obtained. He further submits that in fact, a possessory agreement of sale does not confer any title over the property as per the settled proposition of law. Hence, he sought for dismissal of the revision petition.

10. The point that arises for consideration is whether the revision petitioner is entitled to come on record as party respondent to the final decree proceedings, if so, whether the Executing Court is justified in dismissing the petition?

11. Perused the material on record. It is not in dispute that a preliminary decree was passed in O.S.No.28 of 1979 in between the plaintiff and the defendants, who are respondents herein. It is also not in dispute that since the defendants did not partition the suit properties as per the preliminary decree, F.D.I.A.No.281 of 2002 was filed for passing of final decree by allotment of suit properties between the plaintiff and the defendants. The issue involved herein is about impleadment of the revision petitioner herein in the final decree proceedings as party respondent.

12. It is the case of the revision petitioner that he is a necessary and proper party to come on record as party respondent in the final decree proceedings,

on the ground that his father purchased certain land, which is subject matter of partition, from the 1st plaintiff-Tamminnedi Venkata Rao under a possessory sale agreement dated 04.03.1983 and that as the said Venkata Rao did not execute a regular sale deed and his father filed O.S.No.223 of 2014 for specific performance of the agreement of sale. But, the said suit was dismissed granting alternative relief of refund the amount. His claim is that since his father was a bonafide purchaser of the property, which is part of Item-1 of the suit property in O.S.No.28 of 1979 which is sought to be partitioned. In support of his contention, learned counsel for the revision petitioner placed reliance in ***Syed Mohiddin and another v. Abdul Rahim and others***¹ to contend that a third party can be added as defendant to a suit for partition in which a preliminary decree has been passed.

13. In ***Madadi Narasimha Murty v. Madai Ramachandra Reddy***², a learned Single Judge of this Court categorically held that even though a preliminary decree has been passed, there is no legal bar in appropriate circumstances to add a party under Order 1 Rule 10 CPC, if the court thinks it necessary.

14. In ***B.S. Swaminatha Iyer and another v. Alagarswami Chettiar and others***³, it was held that the creditors can be brought on record as necessary parties to the partition suit which is still in the stage of a commissioner having been appointed and report being filed and no final having been passed and

¹AIR 1964 AP 260

²1975 (2) ANWR 227

³AIR 1956 Madras 288

the passing of which being stayed, which will obviate vexatious multiplicity of litigation.

15. Similarly, in ***Khan Bahadur C.B. Taraporwala and another v. Kazim Ali Pasha and others***⁴, it is held that applications are maintainable under Order 1 Rule 10 (2) CPC, persons who would be bound by the judgment to be given in the action might be properly impleaded and that under doctrine of *lis pendens* a person who is alienee pendent lite would be bound by the final decree to be passed in the suit.

16. On the other hand, in support of his contention, learned counsel for the respondents placed reliance on ***Suraj Lamp and Industries Private Limited v. State of Haryana and another***⁵, to contend that as per Section 54 of the Transfer of Property Act, a contract of sale does not of itself create any interest in, or charge on, the property and that a sale agreement/GPA/Will transaction does not convey any title nor creates any interest in an immovable property and that a transfer of immovable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title or interest in an immovable property can be transferred.

17. Similarly, in ***M.S. Ananthamurthy and another v. J. Manjula etc.***,⁶ the Hon'ble Apex Court categorically held that a transfer of immovable property by way of sale can only be by a deed of conveyance and an agreement to sell

⁴AIR 1966 AP 361

⁵(2012) 1 SCC 656

⁶ SLP (C) No.13618-13619 of 2020, dt. 27.02.2025

is not a conveyance and it is not a document of title or a deed of transfer of property and does not confer ownership right or title.

18. It is evident from the material on record that the revision petitioner herein himself has stated in the petition that his relief for specific performance of the possessory agreement of the sale sought in O.S.No.223 of 2014 was dismissed by granting alternative relief of refund of money. It is also pertinent to mention here that the decree and judgment regarding the dismissal of the relief of specific performance of the trial Court was not set aside so far, and there is no stay of passing of final decree in FDIA.No.281 of 2002 since the suit O.S.No.223 of 2014 filed by the revision petitioner for grant of relief of specific performance of the possessory agreement of sale was dismissed by granting alternative relief of refund money, it can be safely concluded that the revision petitioner is not at all a necessary party to the final decree proceedings to claim equities, in as much as the decree and judgment passed in O.S.No.223 of 2014 were not set aside. Therefore, the findings given by the Executing Court are well justified and well founded and the same do not suffer from any serious infirmity, warranting interference of this Court in exercise of restricted revisional jurisdiction under Section 115 of the CPC, and thus, the Civil Revision Petition is liable to be dismissed.

19. Accordingly, the Civil Revision Petition is dismissed. However, the revision petitioner, who is a third party to O.S.No.28 of 1979 is at liberty to claim his rights in the event he succeeds in the Second Appeal in S.A.No.599

of 2024 said to have been filed by him as against the judgment in A.S.No.154 of 1998. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 11.12.2025

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THE HONOURABLE SMT JUSTICE V.SUJATHA

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Date: 11.12.2025

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