

HIGH COURT OF ANDHRA PRADESH

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CIVIL REVISION PETITION No.2425 of 2025

Between:

G. Chaya Padmini

..... PETITIONER

AND

Mutta Lakshmi Narasamma and 3 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED : 07.03.2026

DATE OF JUDGMENT PRONOUNCED : 10.04.2026

DATE OF JUDGMENT UPLOADED : 10.04.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the
fair copy of the Judgment? Yes/No

RAVI NATH TILHARI, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**
+ CIVIL REVISION PETITION No.2425 of 2025

% 10.04.2026

G. Chaya Padmini

....Petitioner

Versus

\$ Mutta Lakshmi Narasamma and 3 others

....Respondents

! Counsel for the Petitioner : M. S. V. S. Sudha Rani

^ Counsel for respondents : None appeared

< Gist :

> Head Note:

? Cases Referred:

1. AIR 1939 Bom 188
2. AIR 1950 Kutch 96
3. AIR 1969 Guj 150
4. 2007 SCC OnLine AP 621
5. 1934 SCC OnLine All 37 (FB)
6. 1981 SCC OnLine All 332

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**CIVIL REVISION PETITION No. 2425 of 2025****JUDGMENT:**

Heard Ms. M.S.V.S.Sudha Rani, learned counsel for the petitioner. None appears for the respondents in spite of service.

2. This civil revision petition under Article 227 of the Constitution of India has been filed by the defendant in the suit, challenging the Order dated 15.07.2025, by which, the petitioner's application I. A. No. 565 of 2022 in O. S. No. 1225 of 2017, under Order VII Rule 11 (a) and (d) read with Section 151 of Code of Civil Procedure (in short 'CPC') has been rejected by the learned VI Additional Civil Judge (Senior Division), Visakhapatnam.

I. Facts:

3. O.S.No.1225 of 2017 was filed for a decree of payment of money with interest based on the mortgage deed in Document No.445/2004, dated 26.02.2004 and in case of default, to pass a final decree for sale of the plaint schedule property i.e., the mortgage property with some further reliefs.

4. The petitioner/defendant filed written statement and the suit is pending before the Court of VI Additional Civil Judge (Senior Division), Visakhapatnam. I.A.No.565 of 2022 was filed by the petitioner for rejection of the plaint under Clauses (a) and (d) of Order VI Rule 11 CPC. The plea was taken that the suit is barred by limitation. The husband of the 1st respondent (1st plaintiff) and the father of the respondents 2, 3 and 4 (plaintiffs 2 to 4) the minors by name Mutta Pydiraju, represented by the 1st plaintiff, died on

04.01.2014, and in his favour the mortgage deed was executed. The plaintiffs did not obtain succession certificate before filing of the suit as per Section 214 of the Indian Succession Act, 1925. The plea taken was that the suit was filed without obtaining succession certificate and so was not maintainable under law. Further, that it was barred by limitation having been filed on 11.10.2017, after more than 12 years from the date of the mortgage deed, dated 26.02.2004.

5. The plaintiffs/respondents filed objections/counter in the application. The execution of the mortgage deed dated 26.02.2004 was admitted which was not cancelled at any point of time. The petitioner/defendant did not deny that the plaintiffs were the legal heirs of the deceased Pydiraju. It was pleaded that the succession certificate was not required and on the plea of limitation, it was pleaded that though the mortgage deed was executed on 26.02.2004 and the suit was filed on 11.10.2017, but as per para-4 of the mortgage deed, the principal and interest amount was payable within two years from the date of execution of the mortgage deed. So, the period of limitation started after two years from the date of execution i.e., with effect from 25.02.2006 and so the suit was filed within 12 years period. The application was filed to drag on the proceedings of the suit and deserved rejection.

II. Impugned Order of the Trial Court:

6. The learned trial Court framed the following point for consideration:

“Whether the petitioner is entitled for the relief of rejection of plaint filed by respondents in O.S, No.1225 of 2017, as prayed for?”

7. The learned VI Additional Civil Judge (Senior Division), Visakhapatnam held that as per Article 62 of the Limitation Act the period of limitation, to enforce payment of money secured by a Mortgage Deed, of 12 years, commences from the date when the money sued for becomes due. As per the recitals of the registered mortgage deed, two years from the date of execution of the mortgage deed was clearly provided for making payment which was completed on 25.02.2006, and therefore, the suit filed on 11.10.2017 was within the period of limitation of 12 years.

8. On the point of requirement of succession certificate to file the suit by the plaintiffs on the death of Pydiraju, the learned trial Court held that the plaintiffs are the Class-I legal heirs and the suit was filed in that capacity for recovery of money due under the registered mortgage deed. On such point of necessity of succession certificate for the plaintiffs to institute the suit, the learned trial Court held that on a plain reading of Section 214 of the Indian Succession Act, the same does not provide any bar for institution of the suit. It further held that the defendant herself admitted in the written statement that the plaintiffs/respondents are legal heirs of the deceased Pydiraju. So, in view of such an admission, any formal direction to the plaintiffs, the legal heirs of the deceased Pydiraju for filing succession certificate was not required.

9. The learned trial Court further observed that after filing of the suit, the defendant/petitioner filed written statement and after framing of issues the matter was taken up for trial. At the stage of cross-examination of PW 1, the petitioner came up with the application under Order VII Rule 11 CPC along with

another petition under Order 14 Rule 2 CPC to frame preliminary issue but that petition under Order 14 Rule 2 CPC was not pressed on 27.06.2025 in view of filing of the petition under Order VII Rule 11 CPC.

10. Thus, considered, the learned trial Court dismissed the application.

III. Submissions of the learned counsel for the petitioner:

11. Learned counsel for the petitioner submitted that the succession certificate was required for the plaintiffs to institute the suit for recovery of money based on mortgage deed executed in favour of the late husband of the 1st plaintiff and father of the plaintiffs 2 to 4.

12. Learned counsel for the petitioner further submitted that the suit was barred on the face of the plaint as the mortgage deed was executed on 26.02.2004 and the suit was filed in the year 2017 after more than 12 years.

IV. Points for Determination:

13. Two points arise for consideration and determination:

- A.** Whether the suit for recovery of debt by the plaintiffs (claiming on succession from the deceased to be entitled to such debt amount) without production of Succession Certificate, against the debtor (defendant) is barred by law under Section 214 of the Indian Succession Act, 1925?
- B.** Whether the suit is barred by Law of Limitation, Article 62 of the Limitation Act, having been filed beyond 12 years from the date of execution of the Mortgage Deed? In other words, what is the starting point of limitation of 12 years under Article 62 of the Limitation Act?

V. Consideration:

14. I have considered the aforesaid submissions and perused the material on record.

15. Before this Court also, it has not been disputed that the plaintiff No.1 is the widow and plaintiffs 2 to 4 are the daughters and son respectively of late Pydiraju.

Point 'A':

16. Section 214 of the Indian Succession Act provides as under:

“214. Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.—

(1)No Court shall—

(a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effect of the deceased person or to any part thereof, or

(b) proceed, upon an application of a person claiming to be so entitled, **to execute** against such a debtor a decree or order for the payment of his debt, except on the production, by the person so claiming of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 31 or section 32 of the Administrator- General's Act, 1913 (3 of 1913), and having the debt mentioned therein, or
- (iii) a succession certificate granted under Part X and having the debt specified therein, or
- (iv) a certificate granted under the Succession Certificate Act, 1889 (7 of 1889), or
- (iv) a certificate granted under Bombay Regulation No. VIII of 1827, and, if granted after the first day of May, 1889 having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

17. A perusal of Section 214 of the Indian Succession Act shows, that no Court shall pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effect of the deceased person or to any part thereof, under clause (a), except on the production by the person so claiming of, *inter alia*, succession certification granted under either of the clauses (i) to (v) of subsection (1) of Section 214.

18. A bare reading of Section 214 of the Indian Succession Act shows that the bar thereunder is not for institution of the suit, but (a) for passing of a decree and (b) for execution of decree. Section 214 therefore does not bar filing or institution of a suit by the legal heirs or representatives of the deceased against the debtor. So, filing of the suit is not barred without succession certificate by Section 214 of the Indian Succession Act.

19. Production of a succession certificate is not a condition precedent to the maintenance of the suit nor its trial. It only prohibits the Court from passing a decree or execution of a decree without the person claiming the same producing the succession certificate, if required at all before passing a decree inasmuch as in case of admission of the defendant about the plaintiffs being the legal heirs, there may not be a necessity to prove that, by filing Succession Certificate.

20. In ***Virbhadrapa Shilvant Shop at Barsi v. Shekabai Kom Harun Sayad Ahmed Arab***¹ the Bombay High Court held as under:

“The question is, whether having regard to the defect in procedure, the claim of the estate to recover the debt should be defeated. There is no doubt that the provisions of s. 214 of the Succession Act (XXXIX of 1925) govern the procedure in such cases. **Those provisions as interpreted by several decisions merely emphasize that the Court cannot pass a final decree in the absence of a certificate.** Merely because a suit is instituted without a certificate, it does not debar the plaintiffs from producing the certificate before the decree is passed. There have been instances where a Court has deferred passing a decree pending the production of a proper certificate. It has been argued for the appellants that as there was a defect in the institution of the suit by reason of the omission to produce a certificate along with the plaint the suit could not be regarded as having been properly filed when it was originally registered, and that for the purpose of limitation, the suit could be regarded as properly instituted only when the certificate is produced. No authority has been cited in support of that view. In ***Kammathi v. Mangappa* [(1892) 16 Mad. 454.] it was held that where the Court considered that a certificate was necessary, it was enough to produce the certificate before the decree—**(see also *Raichand Dhanji v. Jivraj Bhavanji* [(1930) 56 Bom. 65.] , and *Chandra Kishore Roy v. Prasanna Kumari* [(1910) L.R. 38 I.A. 7, S.C. 38 Cal. 327.] . In ***Gulshan Ali v. Zakir Ali* [(1920) 42 All. 549.] the Court observed that there was no provision of law which required that a certificate must be filed along with the plaint,** and that an opportunity should be given to the plaintiffs for obtaining and producing one. With respect we agree with that view.

21. In ***Murji Asu v. Shamji Mavji***² it was held that Section 214 prohibits the passing of a decree not trial of a suit. Section 214 of the Indian

¹ AIR 1939 Bom 188

² AIR 1950 Kutch 96

Succession Act only requires production of Succession certificate at any time before the decree is passed.

22. In ***Bai Sarda v. Patel***³ the Gujarat High Court held that Section 214 of the Succession Act prohibits the Court from passing a decree unless a succession certificate is produced in the case. In that case, the issue was as to whether the plaintiff therein could institute a suit without obtaining a succession certificate and it was ordered by the learned trial Court that the plaintiff should file the certificate within two months and in failing to do so it was ordered that the suit be dismissed. It was held by the Gujarat High Court that the order was obviously erroneous and contrary to the express provisions of Section 214 of the Indian Succession Act which only required the production of succession certificate at any time before the decree was passed.

23. In ***Sreemanthula Kesavachari v. Yayyavuru Vallamma***⁴ on the necessity of succession certificate under Section 214 of the Indian Succession Act, this Court held as under:

“In *Basappa v. Siddamma*, AIR 1966 Mysore 198, the Mysore High Court held that:

“The Executing Court could not proceed with the execution unless and until the execution petitioner produces a Succession Certificate as required by Section 214 of the Indian Succession Act.”

In *Jinnki Ballav v. Hafiz Mohamed*, 13 Cal 47, the Court held that:

“In a suit to recover the debt, the **plaintiff is bound to produce a succession certificate under the Indian Succession Act before he can obtain a decree already obtained by the deceased though he may institute his suit or apply**

³ AIR 1969 Guj 150

⁴ 2007 SCC OnLine AP 621

for execution without such a certificate, provided it is filed before decree or execution.”

In *Venkatalakshmi v. The Central Bank*, (1956) 2 Mad LJ 114, the Madras High Court held that:

“The object of taking out a succession certificate under Section 214 of the Indian Succession Act is to give security to the debtors paying the debts due to the deceased and thus facilitate the collection of debts on succession.

The purpose of the Act is not to enable litigant parties to have an opportunity of litigating contested questions of title to property. When a Bank is satisfied that the applicant is entitled to collect the debts it should not prescribe onerous conditions which are in no way necessary for its safety.”

In *Shrimati Sankar v. Pila Debi*, 26 CWN 400, the Calcutta High Court held that:

“Section 214(1)(a) of the Indian Succession Act is only a bar to the institution of execution proceeding by a person claiming on succession.

There is no bar to the continuance of execution proceedings which have already been initiated by the deceased Decree Holder.”

In *Tejraj v. Mt. Rampyari*, AIR 1938 Nag 528, the Bombay High Court Nagpur Bench held that:

“Where a decree-holder dies during the pendency of his application and his heir or legal representative applies for substitution of his name for that of the deceased decree-holder, the Court cannot on that application proceed with the execution unless succession certificate is produced which falls within the scope of Section 214(1)(b) of the Indian Succession Act.”

In *Mathura Prasad Jamuna Prasad v. Ghasi Ram alias Rajen*, 1997 MPLJ 187, the M.P. High Court held that:

“Where the execution sought by the legal heirs of the decree-holder after his death, Section 214(1)(b) is applicable and succession certificate is necessary.”

In *Bhaiyaji v. Jogeshwar Dayal Bajpai*, AIR 1978 All 268, the Allahabad High Court held that:

“The non-production of the documents mentioned in Section 214(a) is no bar to a suit, but clause (b) is a bar for passing of a decree.”

In *Jadao Bai v. Puranmal*, AIR 1944 Nag 243, the Nagpur High Court held that:

“Where money decree has been obtained by the decree holder, succession certificate has to be obtained by the widow to execute the decree.”

In *Abdul v. Shamseali*, AIR 1940 Bom 285, the Bombay High Court held that:

“The necessity for obtaining a succession certificate cannot be waived by the parties. The obligation is not merely one in favour of the debtor; it benefits also those interested in the deceased's estate by requiring that money forming part of the estate shall only be paid to a person who has been considered suitable for the grant of a succession certificate.”

In *S. Rajyalakshmi v. S. Sitamahalakshmi*, AIR 1976 AP 361, the A.P. High Court held that:

“If the representative of the decree holder is not a person on whom the interest has developed by survivorship, it will be necessary for him to obtain a Succession Certificate to recover a debt in execution proceedings under Section 214(1)(b), if the execution petition itself is filed by him. Therefore, in a case where an execution application is filed by the legal representative of the deceased, Succession Certificate would be necessary when a ‘debt’ is sought to be recovered. But when the execution is only for recovery of costs, no succession certificate is essential.”

In *LIC of India v. T. Tirupathayya*, AIR 1963 AP 353, a Division Bench of this High Court, while considering the scope of Section 214 of the Succession Act, 1925, held as follows:

“Under the Hindu Law, there is a distinction between succession and devolution of property by survivorship. The Succession Act, as is indicated in the preamble, covers cases of succession only and cases of survivorship are not within the ambit of that Act. Where a family is a joint Mitakshara family and the amount sought to be recovered is an asset of the joint family, the plaintiff, who claims by survivorship, cannot be compelled to take out a succession certificate to enable him to recover the amount.”

But, in the present case, it is not the case of the plaintiffs that the amount sought to be recovered is an asset of the joint family, therefore, Section 214 is squarely applicable to the facts of the present case.

In *S.D. Thapa v. M.P. Regmi*, AIR 1958 Assam 81, the Gauhati High Court held that:

“Section 214 of the Indian Succession Act only prohibits recovery of a debt against the debtor in the absence of a Probate or Succession Certificate. Where the suit is not against a debtor the provisions of the Section are not attracted, nor does the Section speak of any certificate in cases where a Probate has been granted.”

24. The suit is not barred by Section 214 of the Indian Succession Act so as to be covered under clause (d) of Order VII Rule 11 CPC.

25. So, for want of the succession certificate, under Order VII Rule 11 CPC, the plaint cannot be rejected.

26. On the face of the legal provisions and the legal authorities this Court is in agreement with the view taken by the learned trial Court that the suit is not barred by Section 214 of the Indian Succession Act.

27. Further, there is no dispute that the plaintiffs are the legal heirs of Muttu Pydiraju, the mortgagee. On such admitted facts, no proof was required in the form of succession certificate. So, on this count also the plaint did not deserve to be rejected under Order VII Rule 11 CPC.

Point 'B':

28. The next submission of the learned counsel for the petitioner is that the suit was barred by limitation under Article 62 of the Limitation Act.

29. Article 62 of the Limitation Act reads as under:

“62. To enforce payment of money secured by a mortgage or otherwise charged upon immovable property - Twelve years. - **When the money sued for becomes due**”.

30. As per the aforesaid Article 62, the period of limitation is 12 years and the time begins to run from the date when the money sued becomes due.

31. The mortgage deed was executed on 26.02.2004, but it is not the date of execution of the mortgage deed, but the date on which the money due thereunder became payable.

32. There is no dispute that the mortgage deed itself provided a period of two years from the date of execution on completion of which the money would become due. The relevant part of the mortgage deed reads as under:

“.....Accordingly, **I will fully discharge all** the liabilities of this property, the amount due, my own liabilities, and the liabilities of other properties belonging to me **for a period of two years from this date.....**”

33. It is also apt to reproduce relevant part of para-III (b) of the plaint as under:

“(b)**The defendant also agreed to pay the entire amount within two years from the date of execution of the mortgage deed.....**”

34. That period of two years came to an end on 25.02.2006. The period of limitation of 12 years then started to run from that date. The suit was filed on 11.10.2017 which is within the period of limitation which was available up till 25.02.2018. So, on the face of the plaint averments, the suit is not barred by the Law of Limitation as well.

35. In ***Mohammad Hussai v. Sanwal Das***⁵, the Full Bench of Allahabad High Court on reference made on the question “whether in the circumstances mentioned above, limitation for a decree under Order XXXIV, Rule 6 commenced to run after the expiry of one year within which the mortgagor made continued default for payment of interest, **or whether it commenced to run after the expiry of 8 years term stipulated in the deed?**”, answered that the limitation began to run after the expiry of the stipulated period. It was held that the question whether the mortgagor has a right to redeem before the expiry of the stipulated period is immaterial. Time does not begin to run against the mortgagee before the expiry of that period unless he avails himself of the option inserted exclusively for his benefit. The option given was that the mortgagor may default the payment, mortgagee shall have an option to enforce the security at once or to stand by their investment for the full term. In the present case though that is not the question involved with respect to the committing default of the mortgagor before the expiry of the period upto which that debt could be repaid. But ***Muhammad Husain*** (supra) the Full Bench of Allahabad High Court is relevant on the point of the expression “the money did not become due within the meaning of Article 132”, i.e., “until the expiry, of the stipulated period”. At that time, Article 132 of the Limitation Act provided as under the present Article 62, that the limitation begins ‘when the money becomes due’. The answer to the reference by the Full Bench is as under:

⁵ 1934 SCC OnLine All 37 (FB)

“By the Court:- the answer to the question referred to us is **that the limitation began to run after the expiry of the stipulated period.**”

36. In *Prem Chand v. Mohammad Sayeed*⁶ Article 132 of the old Limitation Act was for consideration, same as the present Article 62. The contention of the learned counsel for the appellant as raised in that case, that the limitation commenced to run from the date of the mortgage deed was rejected by the Allahabad High Court observing and holding that in view of the clear terms of Article 132 there was no basis for that contention. Para-13 in *Prem Chand* (supra) reads as under:

“13. The principal premise of the counsel for the appellant was that the period to limitation for such a suit commences to run from the date of the mortgage deed. In view of the clear terms of Article 132 there is no basis for this contention.”

37. No other argument was raised.

VI. Conclusions:

38. For the consideration made above on the points for determination, I hold and my conclusions are as under:

- i) On point (A) it is held that Section 214 of Indian Succession Act does not bar institution or/and trial of a suit for recovery of debt by the persons (plaintiffs) claiming on succession from the deceased to be entitled to such debt amount without production of succession certification against the debtor (defendant).

⁶ 1981 SCC OnLine All 332

- ii) Consequently, on the said ground for want of succession certificate the suit would not be barred under law on the face of plaint averments and the plaint cannot be rejected under Order 7 Rule 11 CPC.
- iii) On point (B) it is held that the limitation of 12 years under Article 62 of the Limitation Act starts when the "money becomes due" and not from the date of execution of the mortgage deed. In the present case in terms of the mortgage deed the money became due on expiry of two years from the date of execution of the mortgage deed. The suit was filed within the period of limitation of 12 years.
- iv) Consequently on the averments in the plaint, the suit was not barred neither by Section 214 of Indian Succession Act nor by Article 62 of the Limitation Act, so as to reject the plaint under Order 7 Rule 11(d) CPC.
- v) I do not find any illegality in the Order under Challenge.

VII. Result:

39. The civil revision petition is devoid of merit and is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

Date: 10.04.2026
Dsr/Ag

Note:
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