



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

[3331]

MONDAY, THE 13th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 3219/2025

Between:

1. REKAPALLI VENKATA RAJYA LAKSHMI, W/O DURGA UMA
MAHESWARARAO, AGED ABOUT 55 YEARS, R/O
HYDERABAD.

...PETITIONER

AND

1. CHOKKARAPU SRINIVASARAO, S/o Peddarao, aged about 55
years R/o Kaikaluru, Eluru District.

...RESPONDENT

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 to set aside the orders in I.A. 406/2025 in I.A.No. 413/2018 in O.S.No. 265/2010 on the file of the Civil Judge (Senior Division) At Kaikalur and allow the I.A.No. 406/2025 by permitting the petitioner to make amendment in I.A.No. 413/2018 in O.S.No. 265/2010 on the file of the Civil Judge (Senior Division) At Kaikaluru and 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 Stay the all further proceedings in I.A.No. 406 /2025 in I.A.No. 413 of 2018 in O.S.No. 265 / 2010 on the file of the Civil Judge (Senior Division): Kaikaluru , pending final disposal of the main C.R.P. 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 amend interim prayer in I.A.No. 1/2025 in C.R.P. No. 3219/2025 by deleting the sentence/words I e. in I.A.No. 406/2025 in 4TH line of interim prayer in I.A.No 1/2025 in C.R.P.No. 3219/2025 and pass

Counsel for the Petitioner:

1.T V V KOTESWARA RAO

Counsel for the Respondent:

1.G L NAGESWAR RAO

The Court made the following:

ORDER

Heard Sri T.V.V. Koteswara Rao, learned counsel for the petitioner and Sri G.L. Nageswara Rao, learned counsel for the respondent.

2. The defendant in the suit O.S.No.265 of 2010 filed the above civil revision petition (hereinafter referred to as 'the revision') against the order dated 11.09.2025 in I.A.No.406 of 2025 in I.A.No.413 of 2018 in O.S.No.265 of 2010 on the file of the learned Civil Judge (Senior Division), Kakinada.

3. The respondent herein, being the plaintiff, filed O.S.No.265 of 2010 against the revision petitioner seeking specific performance of the agreement of sale, dated 15.01.2002. The defendant was set ex parte. Thereafter, the suit was decreed vide judgment and decree dated 01.11.2011.

4. The revision petitioner/defendant filed I.A.No.413 of 2018, seeking condonation of delay of 1075 days in filing a petition to set aside the ex parte decree dated 01.11.2011. During the enquiry, the revision petitioner was examined as P.W.1 in the said interlocutory application.

5. When I.A.No.413 of 2018 was posted for orders, the revision petitioner filed I.A.No.406 of 2025 under VI Rule 17 of the Code of Civil Procedure, 1908, seeking amendment to the affidavit filed in support of I.A.No.413 of 2018, by incorporating para 2(a) after para (2).

6. The respondent/plaintiff filed a counter and opposed the application.

7. The trial Court, by order dated 11.09.2025, dismissed the application. Aggrieved by the same, the above revision was filed.

8. Learned counsel for the petitioner would submit that para 2(a) was not incorporated in the affidavit of I.A.No.413 of 2018, inadvertently. He would submit that by way of the amendment, the revision petitioner intends to place a fact on record and would further state that the revision petitioner shall not adduce any further evidence in this regard.

9. The statement made by the learned counsel for the revision petitioner that he will not lead any evidence after incorporating para 2(a) is placed on record.

10. Learned counsel for the respondent would contend that the revision petitioner was examined as P.W.1 in I.A.No.413 of 2018. When the said application was posted for orders, the revision

petitioner filed the present application only to drag on the proceedings. The trial court considered the same and dismissed the application.

11. The point for consideration is:

Whether the revision petitioner has set out sufficient reasons to amend the Affidavit filed in support of the petitioner to condone the delay?

12. As seen from the record, by way of the amendment, the revision petitioner is only seeking to incorporate a fact in the affidavit filed in support of the delay condonation application, stating that the said fact was not mentioned due to inadvertence. The learned counsel for the revision petitioner submitted that no further evidence would be let in.

13. The revision petitioner intends to add a paragraph bringing out a fact in another lis to which the respondent is also a party. The respondent, by way of the amendment, will not be taken by surprise, or the revision petitioner intends to fill up the lacuna.

14. It is a settled principle of law that an amendment can be allowed if it satisfies two conditions:

(a) of not work injustice to the other side, and

(b) of being necessary for the purpose of determining the real questions in controversy between the parties.

15. The Court must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide and dishonest amendments. The purpose and object of Order VI Rule 17 of the Code is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. However, an

amendment cannot be claimed as a matter of right. Of course, in all circumstances, the courts, while deciding such prayers, should not adopt a hyper-technical approach. A liberal approach should be the general rule, particularly in cases where the other side can be compensated with costs.

16. The Hon'ble Apex Court in **Life Insurance Corporation of India Vs. Sanjeev Builders Pvt. Ltd**¹, after considering numerous precedents concerning the amendment of pleadings, culled out certain principles:—

(i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

(iii) Amendments, while generally should be allowed, the same should be disallowed if –

(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

¹ (2022) 16 SCC 1 : 2022 SCC OnLine SC 1128

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is *malafide*,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are -

(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.”

17. Keeping in view the expression of the Hon’ble Apex Court, though the application was filed at a belated stage; the trial Court, should have exercised the jurisdiction vested in it and allowed the interlocutory application, given the facts and circumstances of the case, by imposing costs. However, the learned trial court failed to exercise the jurisdiction vested in it. If the order under revision allows to be continued, it will result in a miscarriage of justice. Therefore, the order under revision brooks interference of this Court.

18. Given the above discussion, the order, dated 11.09.2025, in I.A.No.406 of 2025 in I.A.No.413 of 2018 in O.S.No.265 of 2010 is hereby set aside. I.A.No.406 of 2025 stands allowed on payment of Rs.5000/- payable by the revision petitioner to the plaintiff within two weeks from the date of receipt of the copy of the order. On making such payment, the revision petitioner shall file a memo before the trial

Court. If the plaintiff declines to receive the costs, the revision petitioner shall deposit the costs before the Mandal Legal Services Committee, Kaikaluru and file a memo before the trial Court.

The revision petitioner shall file an amended copy of the affidavit before the trial court within the time stipulated as per Order VI Rule 18 CPC, from the date of receipt of the copy of the order.

The learned trial court shall dispose of I.A.No.413 of 2018, on merits as expeditiously as possible, since the evidence is available on record.

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

JUSTICE SUBBA REDDY SATTI

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