



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

[3333]

**FRIDAY, THE TENTH DAY OF JULY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE SMT JUSTICE V.SUJATHA
IA 2 OF 2025**

IN

CIVIL REVISION PETITION NO: 3128/2024

Between:

- 1.SUNKARA KAMALAVATHI, W/O. NARAYANA RAO, HINDU
AGED ABOUT 63 YEARS, HOMEMAKER, R/O.
RANGAPURAM VILLAGE, REDDYGUDEM MANDAL,
KRISHNA (NTR) DISTRICT
- 2.BOLLA LEELA MUKTHABAI,, W/O. PRAKASH RAO, HINDU
AGED ABOUT 55 YEARS. HOME MAKER, R/O. RAJOLU,
ROJULU MANDAL, EAST GODAVARI DISTRICT.

...PETITIONER(S)

AND

- 1.CHEBROLU SAMBA SIVA RAO, S/O. VENKATESWARA
RAO, HINDU AGED ABOUT 49 YEARS. BUSINESS, R/O.
REDDIKUNTA VILLAGE, H/O. RANGAPURAM,
REDDYGUDDER MANDAL, KRISHNA (NTR) DISTRICT.
- 2.CHEBROLU RAJU, S/O. VENKATESWARA RAO, HINDU,
AGED ABOUT 47 YEARS. AGRICULTURIST, R/O.
REDDIKUNTA VILLAGE, H/O. RANGAPURAM,
REDDYGUDDER MANDAL, KRISHNA (NTR) DISTRICT.
- 3.GANDRA SANKARA REDDY, S/O. LATE JAMALA REDDY,
HINDU, AGED ABOUT 46 YEARS. AGRICULTURIST, R/O.
RANGAPURAM VILLAGE REDDYGUDEM MANDAL, NTR
DISTRICT.

...RESPONDENT(S):

May be pleased to review the order dated 22-11-2025 passed
in C.R.P. No. 3128 of 2024, in the interest of justice and pass

Counsel for the Petitioner(S):

1.G SUNDARESAN

Counsel for the Respondent(S):

1.G.SREE DEEPTHI

The Court made the following:

ORDER:

1. This review petition is filed under Order XLVII Rule 1 and Section 114 of the Code of Civil Procedure by the petitioners in Civil Revision Petition No.3128 of 2024 to review the order dated 22.11.2025 passed in the said CRP.

2. Brief facts of the case are as follows:

(a) The respondent Nos.1 and 2 filed O.S.No.134 of 2006 on the file of the Court of the Senior Civil Judge, Nuzvid, seeking permanent injunction, restraining the petitioners and other defendants in the said suit, from interfering with their peaceful possession and enjoyment of the suit schedule property. In the said suit, the petitioners are arrayed as defendant Nos.1 and 2, the late father of the petitioners was arrayed as defendant No.3 and some third parties as defendant Nos.4 to 7. The Court below, having observed that the petitioners herein put forth relevant material to prove that the respondents have no title over the plaint schedule property, dismissed the suit filed by the respondents, on 27.08.2010.

(b) The said judgment was challenged by the respondents before the learned XV Additional District and Sessions Judge, Nuzvid by way of an appeal suit vide A.S.No.65 of 2013 wherein, the appellate Court confirmed the judgment passed by the trial Court (vide judgment dated 16.11.2017) by observing that the petitioners were able to show better title to prove their settled possession and that the respondents herein failed to disclose their

settled possession over the suit schedule property. Aggrieved by the judgment passed by the appellate court, on 16.11.2017, the respondents preferred a Second Appeal before this Court i.e. S.A.No.365 of 2018 wherein this Court has upheld the judgments passed by the Courts below, vide Judgment dated 16.11.2023.

(c) Thereafter, the respondents filed the present suit vide O.S.No.73 of 2024 on the file of the Junior Civil Judge, Mylavaram, for declaration of title and consequential relief of permanent injunction in respect of the same property. In the said suit, the petitioners herein filed an application under Order VII Rule 11 (a) and (d) of the Code of Civil Procedure, 1908, requesting the Court to reject the plaint for want of cause of action and on the ground that it is barred by limitation. The Court below, after considering the rival contentions of both the parties, passed the order dated 14.10.2024 dismissing the application filed by the petitioners. Aggrieved by the said Order, the petitioners filed the Civil Revision Petition.

3. After hearing Sri. Y. Srinivasa Murthy, learned Senior Counsel representing Sri. G. Sundaresan, learned counsel for the petitioners; Sri. Narsi Reddy, learned counsel appearing on behalf of Sri. Ganga Rami Reddy, learned Counsel for the respondents in the Civil Revision Petition, this Court held in C.R.P.No.3128 of 2024 that admittedly, the learned Senior Civil Judge, Nuzvid in O.S.No.134 of 2006 vide judgment dated 27.08.2010, the learned XV Additional District and Sessions Judge, Nuzvid in the judgment dated 16.11.2017 in Appeal Suit (A.S.No.65 of 2013) and this Court in the Second Appeal (S.A.No.365 of 2018) filed by the

respondents, concurrently observed that the respondents ought to have filed a suit for declaration of title instead of a suit for injunction. By taking advantage of the said observation, the respondents cannot file the present suit after disposal of the Second Appeal and contend that the same is not barred by limitation. The Appeal Suit and the Second Appeal did not, in any manner, preclude the respondents from seeking appropriate amendments therein. Failing to do so, it cannot be used now as a shield to overcome the bar of limitation. Even as per the law laid down by the Hon'ble Supreme Court in "**Shri Mukund Bhavan Trust and Ors. Vs. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Ors¹**" the plaint must be rejected at threshold without proceeding to trial when it is evident from plaint that the suit is hopelessly barred by limitation, even though the issue of limitation is a mixed question of fact and law. Allowing such suits to proceed would be an abuse of judicial process and would unnecessarily burden the defendants.

Having observed so, this Court allowed the Civil Revision Petition, the operative portion of the same is as follows:

"Accordingly, this civil revision petition is allowed and the order dated 14.10.2024 passed by the learned Junior Civil Judge, Mylavaram, Krishna (NTR) district in I.A.No.2 of 2024 in O.S.No.73 of 2024 is set-aside and the matter is remanded to the trial Court for disposal of the said I.A.No.2 of 2024 in O.S.No.73 of 2024 afresh in view of the observations made supra. No costs."

¹ 2025 (2) ALD 246 (SC)

4. Pursuant thereto, the petitioners filed the present review contending that this Court, having made categorical observations on all aspects in a well-considered manner, ought to have allowed the interlocutory application filed to reject the plaint.

5. Sri Y.Srinivasa Murthy, learned Senior Counsel for review petitioners contended that the plaintiff has cleverly drafted the plaint to bring the suit within the period of limitation which, otherwise, is barred by limitation; and that this Court having observed so allowed the revision petition and remanded the I.A.No.2 of 2024, which was filed to reject the plaint, to the trial Court for disposal afresh. He further contended that this Court having made such categorical observation that the plaint is not maintainable, ought to have allowed the application filed for rejection of the plaint, instead of remanding the matter to the trial Court. He further contended that Special Leave to Appeal (C) No.3126 of 2026 filed against the order passed by this Court in C.R.P.No.3128 of 2024, was dismissed by the Hon'ble Apex Court at the threshold. Since the SLP was dismissed by a non-speaking order, the order of this Court passed in Civil Revision Petition would not merge in the order of the Hon'ble Apex Court and this Court can modify the same.

6. Though notice in the review petition is served, none appeared for the respondents.

7. For better appreciation of the present Review Application, this Court feels it appropriate to extract Order XLVII Rule 1 of Code of Civil Procedure, 1908, which reads as follows:

“Order XLVII Rule 1 –

Application For Review of Judgment:

(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

8. In the case of “**Shanti Conductors (P) Ltd. Vs. Assam SEB²**” the Hon’ble Apex Court observed that scope of review under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure, 1908 is limited and under the guise of review, the Petitioner cannot be permitted to reagitate and reargue questions

² (2020) 2 SCC 677

which have already been addressed and decided. It is further observed that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order XLVII Rule 1 of the Code of Civil Procedure, 1908.

9. Now, coming to the present case, admittedly, the orders passed by this Court in C.R.P. No.3128 of 2024 were challenged before the Hon'ble Apex Court in Special Leave to Appeal (C) No.3126 of 2026 and vide order dated 30.01.2026 the Hon'ble Apex Court dismissed said Special Leave to Appeal (C) No.3126 of 2026 preferred by the respondents herein, which reads thus:

“1. Exemption Application is allowed.

2. Having heard the learned Counsel appearing for the petitioners and having gone through the materials on record, we find no good reason to interfere with the impugned order passed by the High Court.

3. The Special Leave Petition is, accordingly, dismissed.

4. Pending applications, if any, also stand disposed of.”

10. While dealing with the issue of application of doctrine of merger in the case of dismissal of special leave petition, the Hon'ble

Apex Court in “***Kunhayammed and others Vs. State of Kerala and others***³” held as follows:

“A petition for leave to appeal to this Court may be dismissed by a non-speaking order or by a speaking order. Whatever be the phraseology employed in the order of dismissal, if it is a non-speaking order, i.e. it does not assign reasons for dismissing the special leave petition, it would neither attract the doctrine of merger so as to stand substituted in place of the order put in issue before it nor would it be a declaration of law by the Supreme Court under Article 141 of the Constitution for there is no law which has been declared. If the order of dismissal be supported by reasons then also the doctrine of merger would not be attracted because the jurisdiction exercised was not an appellate jurisdiction but merely a discretionary jurisdiction refusing to grant leave to appeal. We have already dealt with this aspect earlier. Still the reasons stated by the Court would attract applicability of Article 141 of the Constitution if there is a law declared by the Supreme Court which obviously would be binding on all the courts and tribunals in India and certainly the parties thereto. The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the apex court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the one expressed by this Court. The order of Supreme Court would mean that it has declared the law and in that light the case was considered not fit for grant of leave. The declaration of law will be governed by Article 141 but

³ AIR 2000 SC 2587

still, the case not being one where leave was granted, the doctrine of merger does not apply.....”

11. In view of the law laid down by the Hon’ble Apex Court in the said judgment, the doctrine of merger does not apply in the case of dismissal of special leave petition under Article 136 of the Constitution of India. Further, an order dismissing a special leave petition, more so when it is by way of a non-speaking order, does not result in merger of the order impugned into the order of the Hon’ble Supreme Court. Therefore, this Court is of the opinion that the operative portion of the order passed in the C.R.P.No.3128 of 2024 can be modified without disturbing the findings already given by this Court.

12. No doubt, under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. However, in the present case, the petitioners are not raising or rearguing questions which have already been addressed and decided, but they are seeking to modify the order passed by this Court only to the extent of rejecting the plaint instead of remanding the matter to the trial Court as this Court has ample power to reject the plaint instead of remanding the matter to the Trial Court.

13. In “**Raghwendra Sharan Singh Vs. Ram Prasanna Singh (Dead) by Legal representatives**⁴” relied on by the learned senior

⁴ (2020) 16 SCC 601

counsel appearing for the petitioners, the Hon'ble Apex Court held as follows:

“Therefore, considering the averments in the plaint and the bundle of facts stated in the plaint, we are of the opinion that by clever drafting the Plaintiff has tried to bring the suit within the period of limitation which, otherwise, is barred by law of limitation. Therefore, considering the decisions of this Court in the case of **“T. Arivandandam v. T.V. Satyapal⁵”**, as stated above, and as the suit is clearly barred by law of limitation, the plaint is required to be rejected in exercise of powers Under Order 7 Rule 11 of the Code of Civil Procedure.”

14. Having observed so, the Hon'ble Apex Court allowed the petition filed under Order VII Rule 11 C.P.C. and rejected the plaint. The operative portion of the said judgment is as follows:

“In view of the above and for the reasons stated above, we are of the opinion that both the High Court as well as the learned trial Court have erred in not exercising the powers Under Order 7 Rule 11 of the Code of Civil Procedure and in not rejecting the plaint in exercise of powers Under Order 7 Rule 11 of the Code of Civil Procedure. For the reasons stated above, the impugned judgment and order passed by the High Court as well as the trial Court cannot be sustained and the same deserve to be quashed and set aside. Consequently, the impugned judgment and order passed by the High Court dated 12.03.2013 as well as the order passed by the Munsif, Danapur rejecting the Order 7

⁵ (1977) 4 SCC 467

Rule 11 application filed by the original Defendant are hereby set aside. Consequently, the application submitted by the Appellant herein-original Defendant to reject the plaint Under Order 7 Rule 11 of the Code of Civil Procedure is hereby allowed and the plaint, being Title Suit No. 19 of 2003 is hereby rejected. The present appeal is allowed accordingly in terms of the above. No costs”

15. In “***Gruhalakshmi Finance, Srikakulam and another Vs. Andavarapu Govindarajulu and others***”⁶ while dealing with Civil Revision Petition No.2156 of 2025, which was filed assailing the dismissal order passed in the application filed under Order VII Rule 11 of C.P.C., passed the following order.

“Thus, the Trial Court, in the opinion of this Court, failed to exercise the jurisdiction vested with it. Since the Trial Court failed to exercise the jurisdiction vested with it, the order passed by the Trial Court brooks interference while exercising jurisdiction under Article 227 of the Constitution of India.

Accordingly, this civil revision petition is allowed. The order dated 21.04.2025 in IA No.184 of 2023 in OS No.40 of 2022, on the file of the Judge, Family Court-cum-III Additional District and Sessions Judge, Srikakulam, is set aside. IA No.184 of 2023 stands allowed. Consequently, the suit OS No.40 of 2022 on the file Court of the Family Court-cum-III Additional District and Sessions Judge, Srikakulam, is hereby rejected under Order VII Rule 11 C.P.C. No costs.”

16. Relying on the said judgments of the Hon’ble Apex Court and this Court, learned senior counsel appearing for the petitioners,

⁶ 2026 (1) ALD 515 (AP)

requested this Court to modify the order dated 22.11.2025 passed in C.R.P.No.3128 of 2024 and reject the plaint as the reasoning given by this Court is suffice to reject the same.

17. Further, on a perusal of the order passed by this Court in the C.R.P., this Court held that by clever drafting, the plaintiff has tried to bring the suit within the period of limitation, which, otherwise, is barred by law of limitation and allowing such suits to proceed would be an abuse of judicial process and would unnecessarily burden the defendants. Having observed so, and as rightly contended by the learned senior Counsel Y.Srinivasa Murthy, representing Sri G.Sundaresan, learned counsel for the petitioners, there is no necessity to remand the matter to the trial Court for disposal of the interlocutory application afresh.

18. As per the law laid down by the Hon'ble Apex Court in various judgments (referred supra), the scope of review jurisdiction is undoubtedly limited and cannot be invoked for rehearing the matter on merits or for substituting one possible view with another. However, where the applicants demonstrate an error apparent on the face of the record, or establishes the existence of any other ground recognized in law warranting review, the Court would be justified in exercising its review jurisdiction to prevent miscarriage of justice. The power of review is intended to correct palpable errors and to ensure that the administration of justice is not defeated on account of an inadvertent mistake.

19. Upon careful consideration of the material available on record and the submissions advanced, this Court is satisfied that the review petitioners have made out sufficient grounds for exercise of the review jurisdiction. The error pointed out is not one requiring a lengthy process of reasoning or re-appreciation of evidence, but is apparent from the record and has a bearing on the decision rendered. Therefore, this Court is of the considered opinion that the Review Petition deserves to be allowed.

20. In the result, the review petition is allowed, modifying the Order dated 22.11.2025 passed by this Court in C.R.P. No.3128 of 2024. Accordingly, the Civil Revision Petition is allowed, setting aside the Order dated 14.10.2024 passed by the learned Junior Civil Judge, Mylavaram in I.A.No.2 of 2024 in O.S.No.73 of 2024, and consequently, I.A.No.2 of 2024 in O.S.No.73 of 2024 on the file of the Junior Civil Judge, Mylavaram, stands allowed, rejecting the plaint. No costs.

21. Consequently, miscellaneous applications, pending, if any, shall stand closed.

JUSTICE V.SUJATHA

10.07.2026

Ksp

Whether the order is:

Speaking: Yes

Reportable: No