

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

**FRIDAY, THE NINETEENTH DAY OF JUNE,  
TWO THOUSAND AND TWENTY SIX**



**:PRESENT:**

**THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

**SECOND APPEAL NO: 255 OF 2026**

**Between:**

1. Ganna Venakta Swamy (died), per L.Rs., (D1)
2. Ganna Kumaramma, (D2), W/o Late Venkat Swamy, Female, aged about 55 years. House wife R/o D.No.6-23, Kakarla Village, Ardhaveedu Mandal, Prakasam District- 523333.
3. Ganna Tyagaraja Rayulu, (D3), S/o late Venkata Swamy, Male, aged about 31 years, employee, R/o D.No.6-23, Kakarla Village, Ardhaveedu Mandal, Prakasam District-523333.
4. Ganna Anitha, (D4), W/o E.Janardhan, D/o late Venkata Swamy, Female, aged about 37 years. House wife, R/o D.No.6-23, Kakarla Village, Ardhaveedu Mandal, Prakasam District-523333.
5. Ganna Pallavi, (D5), W/o Naveen, D/o late Venkata Swamy, Female, aged about 34 years, employee, R/o D.No.6-23, Kakarla Village, Ardhaveedu Mandal, Prakasam District-523333.
6. Ganna Madhavi, (D6), D/o late Venkata Swamy, Female, aged about 29 years, R/o D.No.6-23, Kakarla Village, Ardhaveedu Mandal, Prakasam District-523333.

**Appellants/Respondents in First Appeal Defendants  
AND**

1. Ganna Pedda Kotaiah (Died), per L.Rs., (Original Plaintiff)
2. Ganna Chennamma, (Appellant No.2), W/o Late Pedda Kotaiah, Female, aged about 66 years, Cultivation, R/o D.No.6-3, Kakarla Village, Ardhaveedu Mandal, Prakasam District- 523333.
3. Ganna Pedda Kasi Rao, (Appellant No.3), S/o Late Pedda Kotaiah, Male, aged about 46 years. Cultivation, R/o D.No.6-3, Kakarla Village, Ardhaveedu Mandal, Prakasam District- 523333.

4. Ganna China Kasi Rao, (Appellant No.4), S/o late Pedda Kotaiah, Male, aged about 39 years. Cultivation, R/o D.No.6-3, Kakarla Village, Ardhavedu Mandal, Prakasam District- 523333.
5. Kasula Kasamma, (Appellant No.5), W/o Pandu, Female, aged about 41 years, Cultivation, R/o D.No.4-5A, Kakarla Village, Ardhavedu Mandal, Prakasam District-523333.

(R2 to R5 who are appellants in First Appeal are added as legal representatives of deceased 1<sup>st</sup> appellant as per orders in IA.No.865/2024, Dated 14.02.2025 in AS.No.22/2024)

**Respondents/appellants in First Appeal/ Original plaintiff (deceased R1)**

Second Appeal under Section 100 of CPC., is filed praying that this Hon'ble Court may be pleased by setting aside the decree and judgement in A.S.No.22/2024, on the file of Civil Judge (Senior Division), Markapur, dated 19.11.2025 under which the dismissal decree and judgment of court, dated 18.07.2018 in OS.No.535/2003, on the file of Principal Junior Civil Judge, Giddalur, is reversed. ✓

**IA NO: 1 OF 2026**

Petition under Order 39 Rule 1 & 2 and Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to grant temporary injunction restraining the respondents/plaintiffs from interfering with petitioners possession and enjoyment of plaint schedule property of Ac.0-09 cents in RS.No.797/1 of Kakarla Village, Ardhavedu Mandal, Prakasam District in by suspending the decree and judgment, dated 19.11.2025 in AS.No.22/2024, on the file of Civil Judge (Senior Division), Markapur, pending disposal the above second appeal in the ends of justice;

The Appeal coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the earlier order of the High Court dated: 07.05.2026 made herein and upon hearing the arguments of Sri C VENKAIAH, Advocate for the Appellants and of Sri YADAVALLI RAMESH, Advocate for the Respondent Nos.2 to 5;



**The Court made the following ORDER:**

**Heard learned counsel for the appellants and learned counsel for the respondents.**

**Considering the submissions made by the learned counsel for the appellants and on perusal of the material on record, the following substantial questions of law were framed: ✓**

- i) Whether the first appellate court below committed error of law by not following best evidence rule as contemplated under sections 91 and 92 of Indian Evidence Act, more so when plaintiff / PW.1 contended that he sold Ac.0-31 cents, out of Ac.0-40 cents to one Gannam Ananthaiah and others and omitted to file said original sale deed which is very crucial?**
- ii) Whether the first appellate court below committed error of law by not drawing adverse inference against plaintiffs for withholding the best evidence within special knowledge by not filing any original or certified copy of sale deed without any justifiable explanation in support of their contentions that the 1<sup>st</sup> plaintiff sold Ac.0-31 cents, out of his Ac.0-40 cents of his land and remained only Ac. 0-09 cents of schedule property?**
- iii) Whether the first appellate court is justified in reversing the decree and judgment of trial court without justifiable grounds and granting a decree for permanent injunction when the plaintiff failed to prove lawful possession of the schedule property as on the date of filing suit, i.e., 18.12.2003 contrary to the law laid down by the Hon'ble Supreme Court in Maria Margarida Sequeira Fernandes Vs Erasmo Jack de Sequeira (2012) 5 SCC 370?**
- iv) Whether the first appellate court committed a substantial error of law in relying upon Ex.A3 an incomplete and mutilated certified copy of alleged arbitration award contrary to Sections 61 to 65 of Indian Evidence Act equal to 56 to 60 of BSA 2023?**
- v) Whether a bare suit for injunction is maintainable in the presence of serious disputes relating to title, partition and**

identity without seeking declaratory relief under section 34 of the Specific Relief Act? ✓

Admit.

For hearing, list the matter after eight (8) weeks.

Interim order granted earlier stands extended until further orders. ✓

//TRUE COPY//

SD/- L.MANJULA  
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Civil Judge (Senior Division), Markapur.
2. The Principal Civil Judge (Junior Division), Giddalur.
3. One CC to Sri. C VENKAIAH, Advocate [OPUC]
4. One CC to Sri. YADAVALLI RAMESH, Advocate [OPUC]
5. One spare copy

JSS

**HIGH COURT**

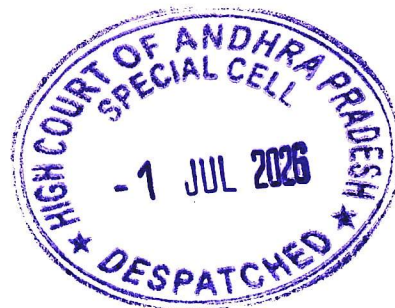
**NV, J**

**DATED: 19.06.2026.**

**FOR HEARING, LIST THE MATTER AFTER EIGHT (8) WEEKS.**

**ORDER**

**SA.No.255 of 2026**



**INTERIM ORDER EXTENDED**