



2025:TSHC:53598

[3442]

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE RENUKA YARA

CIVIL REVISION PETITION NO: 102 OF 2025

Petition under Article 227 of the constitution of India aggrieved by the Order dated 12.12.2024 Passed in I.A.No.700 of 2024 in O.S. 59 of 2017 on the file of the Court of the Junior Civil Judge, Bhainsa.

Between:

1. Ummai Vasavi, wife of late Hanumantha Rao, Age. 40 years, Agriculture, Basar Mandal, Nirmal District.
2. Ummai Nithyasri, daughter of late Hanumantha Rao, age. 9 years, Basar Mandal, Nirmal District (under the guardianship of her natural mother Smt. Ummai Vasavi who is Petitioner No.1 herein)

...Petitioners/Respondents/Defendants

AND

1. Nyalakanti Latha @ Vani, wife of Rajeshwar Rao, Aged. 45 years, Housewife, RTC Colony, Nizamabad.

...Respondent/Petitioner/Plaintiff

2. Ummai Gangamma, wife of Laxman Rao, aged. 75 years, Basar Mandal, Nirmal.

...Respondents/Respondents/Defendant

IA NO: 1 OF 2025

Petition under 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 stay the further proceedings O.S.No.59 of 2017 on the file of Junior Civil Judge, Bhainsa.

Counsel for the Petitioner :SMT. TIPPAVAJHALA SAIRAMYA PRANEETHA

Counsel for the Respondents : SRI G VASANTHA RAYUDU

The Court made the following: ORDER



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IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE SMT. JUSTICE RENUKA YARA

C.R.P.No.102 of 2025

22ND December, 2025

Between:

Ummmai Vasavi and another.

... Petitioners

AND

Nyalakanti Latha @ Vani and another.

... Respondents

ORDER:

Heard Smt. Tippavajhala Sairamya Praneetha, learned counsel appearing for the petitioners and Sri G. Vasantha Rayudu, learned counsel appearing for respondents.

2. The Civil Revision petition is filed by the petitioners/defendant Nos.1 and 2 aggrieved by the order dated 12.12.2024 in I.A.No.700 of 2024 in O.S.No.59 of 2017 passed by the learned Junior Civil Judge at Bhainsa, Nirmal District, wherein, the petition filed under Order I Rule 10(2) r/w section 151 of C.P.C to implead the



respondent No.2/proposed defendant No.3 to the main suit has been allowed with permission to carry out consequential amendments to the plaint.

3. The main suit was filed by respondent No.1 herein seeking partition and separate possession of suit schedule property. The plaint consists of Item No.1: Sy.No.320/☺ admeasuring 02 Acres 24 guntas; Item No.2: Sy.No.41/☹ admeasuring 02 Acres 20 guntas, both lands are situated at Basar Village, Basar Mandal, Nirmal District. In said suit, the proposed defendant No.3 was also a coparcener but was not shown as a party and therefore, the Interlocutory Application under revision was filed to array her as defendant No.3 in the main suit and said petition was allowed. Aggrieved by the same, the present C.R.P. is preferred.

4. The reason for challenging the impugned order is that the respondent No.1/plaintiff failed to file a petition under Order XXXII Rule 3 of C.P.C to appoint a guardian to the minor who is arrayed as a defendant No.3. It is submitted that Order XXXII Rule 3 of CPC and sub-rules thereunder



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RY,J
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are mandatory provisions which have to be complied before filing of the petition under Order I Rule 10(2) of CPC as the party to be impleaded is a minor.

5. Learned counsel for the respondents submitted that the guardian who is representing the minor is none other than mother of the minor child and therefore, no such petition is necessary.

6. Learned counsel for revision petitioners relied upon the judgment of the Hon'ble Supreme Court of India in the case of Ram Chandra Arya v. Man Singh, reported in AIR 1968 Supreme Court 954, wherein it is held that if a decree is passed against a minor without appointment of a guardian, the decree is a nullity and is void, and not merely voidable. The point to be noted that, currently the suit is at the stage of arguments, no decree has been passed and while filing the petition to implead the minor, natural mother of the minor child is shown as guardian. Further, reliance is passed upon judgment in the case of Kasturibai and others v. Anguri Chaudhary reported in (2003) 3 Supreme Court Cases 225, wherein it is held that



a Court is empowered to appoint a guardian in the event a person is adjudged to be of unsound mind. In the instant case, the party sought to be impleaded is a minor, but not of unsound mind. In any case, according to the learned counsel for the revision petitioners, the enquiry for appointment of a minor is similar to that of an enquiry to be conducted for appointment of a guardian to the person of unsound mind.

7. In the instant case, the petition under Order 10 Rule 2 of C.P.C. has been allowed, before a guardian was appointed to the minor. As such, the learned counsel for revision petitioners contends that said order has to be set aside, that an enquiry has to be conducted under Order XXXII Rule 3 of CPC and only after the guardian is appointed for the minor child, the petition under Order 1 Rule 10(2) of C.P.C. has to be filed. While making such a contention, the revision petitioners also concede that the proposed minor/defendant No.3 is a coparcener and therefore, she is a necessary party to the partition suit. While, both the parties concede that the minor is a



necessary party, the disagreement is only about the process to be followed for bringing the minor on record.

8. Having regard to the facts and circumstances of the case, this Court is of the considered opinion that non filing of a petition for appointment of a guardian, either prior to, or along with petition Order 1 Rule 10(2) is a curable defect. The respondent No.1/plaintiff or the mother of the minor, as per C.P.C are entitled to file an application for appointment of guardian to the minor.

9. In the instant case, the revision petitioner No.1, who is mother of the revision petitioner No.2 (minor), represented by her learned counsel has contended that she cannot be compelled to act as a guardian to her minor child. The Civil Revision Petition is to be disposed of with a direction to the trial Court, to conduct necessary enquiry for appointing a guardian to the minor.

10. In the result, this Civil Revision Petition is disposed of directing the learned Trial Court to conduct enquiry and to appoint a guardian to the minor defendant No.3 by following the rules under Order XXXII Rule 3 of C.P.C,

since the natural mother, i.e., revision petitioner No.1 is not willing to represent her daughter appoint any other competent person who is willing to represent the minor child, as long as the said person does not have conflict of interest with the minor's interest. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition, shall stand closed.

SD/- A. SREENIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Junior Civil Judge, Bhainsa
2. One CC to SMT. TIPPAVAJHALA SAIRAMYA PRANEETHA, Advocate [OPUC]
3. One CC to SRI G VASANTHA RAYUDU, Advocate [OPUC]
4. Two CD Copies

ADK/PSL

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2025:TSHC:53598

HIGH COURT

DATED:22/12/2025



ORDER

CRP.No.102 of 2025

DISPOSING OF THE CRP
WITHOUT COSTS

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