

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION Nos.345 and 353 OF 2021

CIVIL REVISION PETITION NO: 345 OF 2021

Petition under Article 227 of the constitution of India aggrieved by the Order dated 18/01/2021 Passed in I.A.No.06 of 2021 in O.S.No.107 of 2012 on the file of the Court of the Junior Civil Judge Court at Zaheerabad.

Between:

Shaik Mohammed, S/o Lal Mohammed, Age. 84 yrs, Occ. Retired Employee and Agril, R/o H.No. 11-56, SBH colony Zaheerabad, District Sangareddy.

Petitioner in I.A.No.6 of 2021/Defendant No. 1 in O.S.No.107 of 2012

...Petitioner

AND

1. Ameeruddin, S/o Late Yousuf Ali, Age 54 yrs, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
2. Pasha Miya, S/o Late Yousuf Ali, Age 52 years, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
3. Khutubuddin, S/o Late Yousuf Ali, Age 42 years, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
4. Pasha Miya, S/o Khaja Moinuddin, Age 56 years, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
5. Burhanuddin, S/o Khaja Moinuddin, Age 46 years, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
6. Bahauddin, S/o Khaja Moinuddin, Age 41 years, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
7. Smt. Qamar Begum, W/o Naseeruddin, Age 46 yrs, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
8. Syed Baba, S/o. Naseeruddin, Age 43 yrs, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
9. Rafiuddin, S/o Naseeruddin, Age 40 yrs, Occ. Agriculture, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
10. Syed Hasnuddin died per LRs,

11. Smt. Kabeera Khatoon, W/o Late Syed Hasnuddin, Age 70 years, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
12. Syed Layeekuddin, S/o Late Syed Hasnuddin, Age 33 years, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.
13. Syed Atiquddin, S/o Late Syed Hasnuddin, Age 30 years, R/o Govindpur Village, Zaheerabad Mandal, Sangareddy District.

(Respondent Nos.11 to 13 are impleaded as per Docket Order Dated 12/10/2017 passed in IA.No.81 of 2017 in OS.No.107 of 2012)

14. Mohammed Shabbir, S/o Shaik Mohammed, Aged about 66 Years, Occ. Retired Bank Employee and Agriculture, Presently R/o.H.No.12-2, Moosanagar Colony, Allipur village, Zaheerabad Mandal, Sangareddy District.
15. Md. Saber Hussain, S/o Shaik Mohammed, Aged about 55 Years, Occ. Agriculture, R/o H.No. 11-56, SBH colony Zaheerabad, District Sangareddy.
16. Md Zakir, S/o Shaik Mohammed, Aged about 48 Years, Occ. Agriculture, R/o All are R/o H.No.11-56, SBH Colony, Zaheerabad Town and Mandal, Sangareddy District.

...Respondent No.14 to 16/Defendant No.2 to 4

IA NO: 1 OF 2021

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 to stay all further proceedings in O.S.No.107 of 2012 dated 18/01/2021 on the file of Junior Civil Judge Court at Zaheerabad, in the interest of justice, pending disposal of the CRP.

CIVIL REVISION PETITION NO: 353 OF 2021

Petition under Article 227 of the constitution of India aggrieved by the Order dated 18/01/2021 Passed in I.A.No.05 of 2021 in O.S.No.107 of 2012 on the file of the Court of the Junior Civil Judge Court at Zaheerabad.

Between:

Shaik Mohammed, S/o Lal Mohammed, Age.84 yrs, Occ.Retired Employee and Agril, R/o H.No.1-56, SBH colony Zaheerabad, District Sangareddy.

Petitioner in I.A.No.5 of 2021/Defendant No.1 in O.S.No.107 of 2012

...Petitioner

AND

1. Ameeruddin S/o Late Yousuf Ali, Age 54 yrs, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 2. Pasha Miya, S/o Late Yousuf Ali, Age 52 years, Occ. Agriculture R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 3. Khutubuddin, s/o Late Yousuf Ali, Age 42 years, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District
 4. Pasha Miya, S/o Khaja Moinuddin, Age 56 years, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District
 5. Burhanuddin, S/o Khaja Moinuddin, Age 46 years, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District
 6. Bahauddin, S/o Khaja Moinuddin, Age 41 years, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District
 7. Smt Qamar Begum, W/o Naseeruddin Age 46 yrs, Occ. Agriculture, R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 8. Syed Baba, S/o. Naseeruddin Age 43 yrs, Occ. Agriculture R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 9. Rafiuddin, S/o Naseeruddin Age 40 yrs, Occ. Agriculture R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 10. Syed Hasnuddin, died per LRs
 11. Smt. Kabeera Khatoon, W/o Late Syed Hasnuddin, Age 70 years R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 12. Syed Layeekuddin, S/o Late Syed Hasnuddin, Age 33 years R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
 13. Syed Atiquddin, S/o Late Syed Hasnuddin Age 30 years R/o Govindpur village, Zaheerabad Mandal, Sangareddy District.
- (Respondent Nos.11 to 13 are impleaded as per Docket Order dated 12/10/2017 passed in IA.No.81 of 2017 in OS.No.107 of 2012)
14. Mohammed Shabbir, S/o Shaik Mohammed, Aged about 66 Years, Occ. Retired Bank Employee and Agriculture, R/o.H.No.12 -2, Moosanagar Colony, Allipur village, Zaheerabad Mandal, Sangareddy District
 15. Md. Saber Hussain, S/o Shaik Mohammed, Aged about 55 Years, Occ. Agriculture, R/ o H.No. 11-56, SBH colony Zaheerabad, District Sangareddy
 16. Md Zakir, S/o Shaik Mohammed, Aged about 48 Years, Occ. Agriculture, R/o All are R/o H.No.11-56, SBH Colony, Zaheerabad Town and Mandal, Sangareddy District

...Respondent No.14 -16 /Defendant No.2 to 4

IA NO: 1 OF 2021

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 to stay all further proceedings in O.S.No.107 of 2012 dated 18/01/2021 on the file of Junior Civil Judge Court at Zaheerabad, in the interest of justice, pending disposal of the CRP.

Counsel for the Petitioners in both CRPs :SRI A NAJEEB KHAN

Counsel for the Respondents in both CRPs : SRI VENKATESH DESHPANDE

The Court made the following: COMMON ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

DATE: 23.12.2025

CIVIL REVISION PETITION NOS.345 AND 353 OF 2021

Between:

Shaik Mohammed S/o Lal Mohammed ...Petitioner

And

Ameeruddin and others ...Respondents

COMMON ORDER

These two Civil Revision Petitions are filed under Article 227 of the Constitution of India by the petitioner aggrieved by the orders, dated 18.01.2021, in I.A.Nos.6 and 5 of 2021 in O.S.No.107 2012 passed by the learned Junior Civil Judge, Zaheerabad, whereunder and whereby I.A.Nos.6 and 5 of 2021 are filed under Section 151 of the Code of Civil Procedure, 1908 (for short, 'the C.P.C) to recall and to reopen the case of D.W.1 for the purpose of adducing evidence on behalf of the petitioner, was dismissed on the ground that there are no reasonable and justifiable grounds for reopening the evidence of D.W.1.

2. Heard **Sri A.Najeeb Khan**, learned counsel for the petitioner and **Sri Venkatesh Deshpande**, learned counsel for the respondents.

3. The petitioner herein is defendant No.1 in the suit. The facts of the case in brief are that the respondents filed a suit for survey and demarcation of boundaries and perpetual injunction against the petitioner herein. It is the case of the petitioner that since he is aged about 84 years, it is very difficult for him to walk and stand properly for hours together before the Court, he filed I.A.Nos.600 and 601 of 2020 to reopen and evidence and to appoint an Advocate Commissioner to record his evidence. The said applications were allowed by the trial Court. The Commissioner received warrant from the Court on 10.12.2020, but, he issued notices to the parties 22 days after receipt of said warrant i.e., on 02.01.2021. It is stated that since the petitioner could not complete his evidence, his evidence was eschewed by the trial Court and posted the matter for arguments.

4. The respondents -plaintiffs filed counter stating that when the matter was posted for petitioner's evidence, the

petitioner failed to proceed with the evidence even after several adjournments, his evidence was closed on 31.01.2020 as the suit is of the year 2012. Then the petitioner filed I.A.Nos.600 and 601 of 2020 to reopen the evidence and to appoint Advocate Commissioner to record his evidence. Due to covid pandemic-2019, these applications were allowed and Commissioner was appointed and the case was coming up for recording of evidence of D.W.1 and it was posted on 17.12.2020, 29.12.2020 and 04.01.2021 for commissioner report. It is stated that on 02.01.2021, the Advocate Commissioner issued notice to both parties stating that he is going to record the evidence of D.W.1 on 03.01.2021, but, the petitioner counsel endorsed that D.W.1 is hospitalized and requested to adjourn execution of warrant, as such on 04.01.2021, the Court closed the petitioner evidence and eschewed the chief affidavit of D.W.1 as no medical certificate regarding the health condition. The contention of the petitioner herein is that the learned trial Court acted beyond the Circular of this Court vide ROC No.394 of 2020. After hearing both sides, the learned trial Court dismissed both the

petitioners. Challenging the same the present revision cases were filed by the petitioner-defendant No.1.

5. Learned counsel for the petitioner contended that though the petitioner is aged about 84 years suffering from multiple health issues, the learned trial Court is insisting the petitioner to file his medical record, which is not just and proper. He further submits that the petitioner is ready to cooperate for recording his evidence and hence, he prays to set aside the impugned orders.

6. On the other hand learned counsel for the respondents submits that though reasonable opportunity was given to petitioner he could not choose to complete recording of evidence of D.W.1; that earlier also he filed similar application to reopen his evidence and to appoint advocate commissioner to record the evidence. The trial Court allowed said applications. Thereafter, the matter was adjourned on three occasions for filing commissioner report. On 02.01.2021, the Advocate commissioner issued notice to both parties stating that he is going to record the evidence of D.W.1 on 03.01.2021. But the petitioner's counsel endorsed that

D.W.1 is hospitalized and requested to adjourn the execution of warrant. As such on 04.01.2021 the trial Court closed the defendants' evidence and eschewed the chief affidavit of D.W.1. He further submits that the trial Court after giving due opportunity passed the impugned orders and there are no grounds to interfere with the same and hence, he prays to dismiss the revision petitions.

7. As seen from the record, there are no *bona fides* on the part of the petitioner herein/defendant to show that he has made sincere efforts to cooperate with the Court in disposal of the case. Besides considering the conduct the petitioner so as to see that substantial justice has to be done though 13 years have been elapsed from the date of filing of the suit. But, considering the fact that only to provide substantial justice to the parties and simultaneously to see that no prejudice and inconvenience caused to the litigant who approaches the Court seeking justice, the Court opines that the petitioner can be given an opportunity to put his evidence in a time bound manner, failing which he will lose the opportunity to lead any evidence. Hence, only on the ground of providing an opportunity to give substantial justice

to the petitioner only on an exceptional case, the impugned orders are liable to set aside.

8. Accordingly, these two Civil Revision Petitions are allowed setting the impugned orders, dated 18.01.2021, in I.A.Nos.6 and 5 of 2021 in O.S.No.107 2012 passed by the learned Junior Civil Judge, Zaheerabad. If the petitioner-defendant is intending to file examination of chief of any other witnesses, he shall file chief-affidavits of all the witnesses on the same day and if he does not choose to file the same it will be treated that defendants intend to lead only D.W.1 evidence and no witnesses will be examined thereon and the learned trial Court is directed to examine D.W.1 in the Court by providing him proper facility by the. Further, if any of the witness do not turn up for cross-examination, it shall treat that the said chief affidavit of concerned witness will be eschewed and proceed further with other witnesses if any. The learned trial Court is directed not to give any unnecessary adjournments and petitioner-defendant is also cannot seek any unnecessary adjournments. The entire trial shall be completed on or before 21.01.2026 and the matter shall be disposed of, as expeditiously as possible. No further

time shall be granted to either of the parties to lead evidence beyond 21.01.2026. The petitioner is directed to pay costs of Rs.20,000/- (Rupees twenty thousand only) payable directly to the respondents-plaintiffs. If the petitioner fails to comply any of the direction as stated above, the petitions shall stand dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

SD/- A SREENIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

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SECTION OFFICER

To,

1. The Junior Civil Judge Court at Zaheerabad
2. One CC to SRI A NAJEEB KHAN, Advocate [OPUC]
3. One CC to SRI VENKATESH DESHPANDE, Advocate [OPUC]
4. Two CD Copies

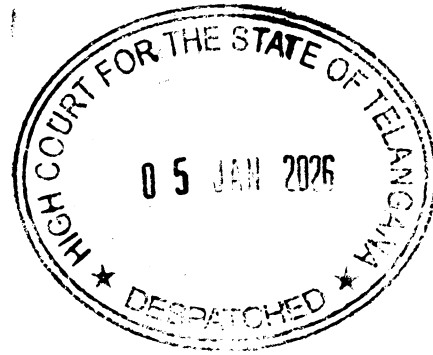
ADK

HIGH COURT

DATED:23/12/2025

COMMON ORDER

CRP.Nos.345 and 353 of 2021



ALLOWING THE BOTH CRPs

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