

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

WEDNESDAY, THE SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY

CRP.No.1505 OF 2022

AND

CRP.No.1509 OF 2022

CRP NO: 1505 OF 2022

Petition under Article 227 of the Constitution of India, aggrieved by the orders dated 24.06.2022 passed in I.A.No. 517 of 2022 in O.S.No. 37 of 2013 on the file of the Court of the I Additional District Judge, at Nizamabad.

Between:

1. J. Arvind Rao S/o. Late Vallabh Shastri, aged about 47 years, Occ Private Service, R/o. H.No.432/41, Sainagar, Allwyn Colony, Kukatpally, Hyderabad.
2. J. Anil Kumar, S/o. Late Vallabh Shastri, aged about 54 years, Occ. Employee of AP Seeds Corp, R/o. H. No 2-2-11, Khasabgalli, Nizamabad.
3. J. Arun Rao, S/o. Late Vallabh Shastri, aged about 67 years, Occ. Private Service, R/o. Kukatpally, Hyderabad.

...PETITIONERS/Petitioners/Plaintiffs

AND

1. Karre Vinod Kumar, S/o. Bhumaiah, aged about 56 years, Occ. Agriculture, R/o. H.No1-3-44, Phulong, Nizamabad.
2. Sunkam Koteswar, S/o. Pochaiah, aged about 56 years, Occ. Govt Servant R/o. H.No1-7-625/A, Phulong, Nizamabad.
3. Sheelam Gangaram, S/o. Narsimloo, aged about 66 years, Occ Retired Teacher, R/o. H.No. 1-9-107, Phulong, Nizamabad.
(Died his Lrs brought on record vide I.A.No. 263 of 2020, dt. 22/01/2021 as Respondent/ Defendant No.8 and 9)
4. Redda Purshottam, S/o. Babanna, aged about 56 years, Occ. Agriculture, R/o. H.No1-3-44, Phulong, Nizamabad.
5. Pantukula Hari Prasad, S/o. Narayana, aged about 32 years, Occ. Agriculture R/o. Phulong, Nizamabad.

6. Malka Reddy Ramulu, S/o. Kistaiah, Aged about 62 years, Occ Milk vendor, Mentrajally Village, Dichpally Mandal, Nizamabad.

(died his Lrs brought on record vide I.A. No. 194 of 2017, dt. 22.01.2018 as Respondent/Defendant No. 7).

7. Malka Reddy Krishna, S/o. Malka Reddy Ramulu, aged about 32 years, Occ. Labour, R/o. H.No1-430, Mentrajally village, Dichpally Mandal, Nizamabad District.
8. Sheelam Goutham, S/o. Sheelam Gangaram, aged about 32 years, Occ. Private Service, R/o. H.No1-9-170, Phulong, Nizamabad.
9. Sheelam Srinu, S/o. Sheelam Gangaram, aged about 38 years, Occ. Private Service, R/o. H.No 1-9-170, Phulong, Nizamabad.

...RESPONDENTS/Respondents/Defendants

I.A. NO: 1 OF 2022

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 all further proceedings in O.S. 37 of 2013 before the I Additional District Judge, at Nizamabad till disposal of the Revision Petition.

Counsel for the Petitioner(s): Sri. T Gangadhar

**Counsel for the Respondents: Sri A. Praneeth counsel representing
Sri. P Lakshma Reddy**

CRP NO: 1509 OF 2022

Petition under Article 227 of the Constitution of India, aggrieved by the orders dated 24.06.2022 passed in I.A. No. 518 of 2022 in O.S. No. 37 of 2013 on the file of the Court of the I Additional District Judge, at Nizamabad.

Between:

1. J. Arvind Rao S/o. Late Vallabh Shastri, Aged about 47 years, Occ. Private Service, R/o. H.No.432/41, Sainagar, Allwyn Colony, Kukatpally, Hyderabad.
2. J. Anil Kumar, S/o. Late Vallabh Shastri, Aged about 54 years, Occ. Employee of AP Seeds Corp., R/o. H. No. 2-2-11, Khasabgalli, Nizamabad.
3. J. Arun Rao, S/o. Late Vallabh Shastri, Aged about 67 years, Occ. Private Service, R/o. Kukatpally, Hyderabad.

...PETITIONERS/Petitioners/Plaintiffs

AND

1. Karre Vinod Kumar, S/o. Bhumaiah, Aged about 56 years, Occ. Agriculture, R/o. H.No.1-3-44, Phulong, Nizamabad.
2. Sunkam Koteswar, S/o. Pochaiiah, Aged about 56 years, Occ. Govt. Servant, R/o. H.No.1-7-625/A, Phulong, Nizamabad.
3. Sheelam Gangaram, S/o. Narsimloo, Aged about 66 years, Occ. Retired Teacher, R/o. H.No. 1-9-107, Phulong, Nizamabad.

(died his Lrs brought on record vide I.A. No. 263 of 2020, dt. 22/01/2021 as Respondent/Defendant No. 8 and 9).

4. Redda Purshottam, S/o. Babanna, Aged about 56 years, Occ. Agriculture, R/o. H.No.1-3-44, Phulong, Nizamabad.
5. Pantukula Hari Prasad, S/o. Narayana, Aged about 32 years, Occ. Agriculture, R/o. Phulong, Nizamabad.
6. Malka Reddy Ramulu, S/o. Kistaiah, Aged about 62 years, Occ. Milk Vendor, R/o. Mentrajally Village, Dichpally Mandal, Nizamabad.
(Died his Lrs brought on record vide I.A. No. 194 of 2017, dt. 22/01/2018 as Respondent/Defendant No. 7).
7. Malka Reddy Krishna, S/o. Malka Reddy Ramulu, Aged about 32 years, Occ. Labour, R/o. H.No.1-430, Mentrajally Village, Dichpally Mandal, Nizamabad District.
8. Sheelam Goutham, S/o. Sheelam Gangaram, Aged about 32 years, Occ. Private Service, R/o. H.No.1-9-170, Phulong, Nizamabad.
9. Sheelam Srinu, S/o. Sheelam Gangaram, Aged about 38 years, Occ. Private Service, R/o. H.No. 1-9-170, Phulong, Nizamabad.

...RESPONDENTS/Respondents/Defendants

I.A. NO: 1 OF 2022

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 all further proceedings in O.S. 37 of 2013 before the Ld. I Additional District Judge, at Nizamabad till disposal of the Revision Petition.

Counsel for the Petitioner : Sri. T Gangadhar
Counsel for the Respondents: Sri A. Praneeth counsel representing
Sri. P Lakshma Reddy

The Court made the following: COMMON ORDER

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

THE HON'BLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY

CIVIL REVISION PETITION No. 1505 and 1509 of 2022

Date: 06.05.2026

Between:

J.Arvind Rao and others	AND	 Petitioners
Karre Vinod Kumar and others		 Respondents

COMMON ORDER:

Heard Sri T.Gangadhar, learned counsel appearing for the petitioners and Sri A.Praneeth, learned counsel representing Sri P.Lakshma Reddy, learned counsel on record appearing for the respondents.

2. These two Civil Revision Petitions are preferred by the petitioners aggrieved by the separate orders dated 24.06.2022 (hereinafter referred to as "the impugned order") passed by the I Additional District Judge, Nizamabad in I.A.Nos.517 and 518 of 2022 in O.S.No.37 of 2013. By the impugned orders, the learned Trial Court dismissed the interlocutory applications filed by the petitioners respectively seeking reopening of the suit and recall of DW1 for further cross-examination on the ground that the DW1 had already been sufficiently and that the proceedings could not be reopened merely on the ground that certain questions had not

been put to the witness or that the earlier cross-examination had been conducted by a junior counsel.

3. Since both the revision petitions arise out of same suit, involve common questions of fact and law and assail interconnected orders, they are being disposed of by way of this common order.

I. BRIEF FACTS

4. The factual backdrop giving rise to the present revisions in brief, is as follows:

The petitioners/plaintiffs instituted O.S.No.37 of 2013 seeking declaration of title, recovery of possession, cancellation of pattadar passbooks, perpetual injunction and a declaration that he registered sale deed in respect of suit schedule property is null and void. The case of the petitioners/plaintiffs is that their father, late Vallabh Shastri never executed any sale deed in respect of the suit schedule property. It is their specific case that the respondent/defendant No.6 impersonated late Vallabh Shastri and by falsely projecting himself as the vendor, fraudulently brought into existence a registered sale deed in favour of respondents/defendants Nos.1 to 5. During the course of trial, DW1 was examined and cross-examined, whereafter his evidence came to be closed. Subsequently, when the suit had reached the

stage of arguments, the petitioners filed I.A.No.517 of 2022 under Section 151 CPC seeking reopening of the matter for the purpose of cross-examination of DW1 and I.A.No.518 of 2022 under Order XVIII Rule 17 read with Section 151 CPC seeking recall of DW1 for such further cross examination. Both the said applications were dismissed by the learned Trial Court by separate orders dated 24.06.2022. Aggrieved thereby, the present Civil Revision Petitions have been preferred.

II. SUBMISSIONS ON BEHALF OF THE PARTIES:

a) Submissions on behalf of the petitioners/plaintiffs:

5. Learned counsel for the petitioners contends that the petitioner's father late Vallabh Shastri had never executed any sale deed nor sold the subject property to any person and that respondent No.6 impersonated late Vallabh Shastri and affixed his photograph on the registered sale deed while fraudulently projecting himself as the executants/vendor. It is further contended that late Vallabha Shastri, was an illiterate person and had in fact, never executed any such sale deed. According to the petitioners, the earlier cross-examination of DW1 conducted by the counsel on record did not effectively address the pleadings and material issues arising in the suit, resulting in several crucial aspects remaining unexplored. It is further submitted that

permitting further cross-examination of DW1 would not cause any prejudice to the respondents and would, on the contrary, facilitate effective adjudication of the dispute.

6. It is further contended that the petitioners had filed Private Complaint against Respondents No.1 to 5 and others arising out of the same transaction. It is further contended that the inherent powers under section 151 CPC are wide in scope and court is equipped to grant reliefs even when no specific provision exists under the code. It is further submitted that the power to reopen and recall the witness can be exercised at any stage before the pronouncement of judgment.

b) Submissions on behalf of the Respondents/Defendants:

7. The learned counsel for respondents/defendants contends that the petitioners were afforded ample opportunity for cross-examination of DW1 and that they properly utilised it and subsequently DW2 was also cross-examined by the petitioners. According to the respondents, it was only at the stage of final arguments that the petitioners came forward with the present petitions seeking reopening of evidence and recall of DW1. It was argued that the petitioners failed to assign any plausible or valid reason which prevented them from cross-examining DW1 on the aspects which are raised in the affidavits. It was further submitted

that allowing the petitions at the belated stage would cause grave prejudice to the respondents and that learned Trial Court was justified in dismissing both the petitions vide I.A.No.517 of 2022 and I.A.No.518 of 2022.

III. POINT FOR CONSIDERATION:

8. Having given consideration to the rival submissions and upon perusal of the material available on record, the following point arises for consideration of this Court:

“Whether the learned Trial Court was justified in dismissing I.A. No.517 of 2022 filed under Section 151 CPC and I.A.No.518 of 2022 filed under Order XVIII Rule 17 read with Section 151 CPC seeking Reopen and Recall D.W.1 for further cross examination, at the stage of arguments after closing the evidence on behalf of both the sides?”

IV. ANALYSIS:

9. In order to appreciate the rival submissions, it would be apposite to refer to the relevant provision governing recall as contained in the Code of Civil Procedure, which reads thus:

“Order XVIII Rule 17: - Court may recall and examine witness.-The court may at any stage of a suit recall any witness who has been examined and may

(subject to the law of evidence for the time being in force)

put such questions to him as the court thinks fit.”

10. Admittedly, there is no separate provision under CPC enabling a party to reopen the evidence for the purpose of conducting further cross-examination. In such circumstances, the inherent powers preserved under Section 151 of the Code of Civil Procedure are often invoked to meet the ends of justice. Section 151 of the CPC is not a substantive provision granting independent powers upon the Court, but a procedural recognition that Courts can pass appropriate orders in situations where the code is silent, so as to secure the ends of justice and prevent abuse of process of the Court. Section 151 CPC reads thus:

“Section 151: Saving of inherent powers of Court: -
Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.”

11. The scope and ambit of Order XVIII Rule 17 of the Code of Civil Procedure have been authoritatively considered by the Hon'ble Supreme Court in *Vadiraj Naggappa Vernekar (Dead) Through LRs. v. Sharadchandra Prabhakar Gogate*¹, wherein it was observed at Paragraph Nos.25 and 28 as under:

¹ (2009) 4 SCC 410

"25. In our view, though the provisions of Order 18 Rule 17 Civil Procedure Code have been interpreted to include applications to be filed by the parties for recall of witnesses, the main purpose of the said rule is to enable the Court, while trying a suit, to clarify any doubts which it may have with regard to the evidence led by the parties. The said provisions are not intended to be used to fill up omissions in the evidence of a witness who has already been examined.

28. The power under the provisions of Order 18 Rule 17 Civil Procedure Code is to be sparingly exercised and in appropriate cases and not as a general rule merely on the ground that his recall and re-examination would not cause any prejudice to the parties. That is not the scheme or intention of Order 18 Rule 17 Civil Procedure Code."

12. The aforesaid principle was reiterated by the Hon'ble Apex Court in *K.K.Velusamy v. N.Palanisamy*² wherein it was held as follows:

"9. Order 18 Rule 17 of the Code enables the court, at any stage of a suit, to recall any witness who has been examined (subject to the law of evidence for the time being in force) and put such questions to him as it thinks fit. The power to recall any witness under Order 18 Rule 17 can be exercised by the court either on its own motion or on an application filed by any of the parties to the suit requesting the court to exercise the said power. The power is discretionary and should be used sparingly in appropriate cases to enable the court to clarify any doubts it may have in regard to the evidence led by the parties. The said power is not intended to be used to fill up omissions in the evidence of a witness who has already been examined. [Vide Vadiraj Naggappa Vernekar v. Sharadchandra Prabhakar Gogate 2009 (4) SCC 410].

10. Order 18 Rule 17 of the Code is not a provision intended to enable the parties to recall any witnesses for their further

² (2011) 11 SCC 275

examination-in-chief or cross-examination or to place additional material or evidence which could not be produced when the evidence was being recorded. Order 18 Rule 17 is primarily a provision enabling the court to clarify any issue or doubt, by recalling any witness either suo moto, or at the request of any party, so that the court itself can put questions and elicit answers. Once a witness is recalled for purposes of such clarification, it may, of course, permit the parties to assist it by putting some questions."

13. Applying the aforesaid principles to the facts of the present case, this Court finds that the petitioners/plaintiffs were given ample opportunity to cross examine DW1 and that such opportunity was duly availed. It is not a case where DW1 was not cross-examined at all or that the cross-examination was recorded 'NIL' due to unavoidable circumstances nor it is a case where the petitioners were denied effective opportunity by the Trial Court. On the contrary, the evidence of DW1 was duly closed after completion of cross-examination and thereafter DW2 was also examined. It is important to note that the both applications were filed only at the stage of final arguments on ground that the earlier counsel on record did not cross-examine DW1 on certain points and there was change of counsel or inadvertence. Such grounds in the considered opinion of this Court, cannot by themselves constitute sufficient cause for reopening and recall of a witness. The reopening of the case and recalling of a witness at such belated stage would not only cause prejudice to the

respondents/defendants but would also unnecessarily protract the proceedings which had already reached the stage of final adjudication.

14. Equally untenable is the reliance placed by the petitioners upon the pendency of criminal case in C.C.No.1118/2009, a valid ground for recall or reopening. A civil court decides a case based on the preponderance of probability and whereas a criminal court requires proof beyond a reasonable doubt to find the guilt of culprit. Though civil and criminal cases can run simultaneously on the same issue, they are distinct, which suggests that a criminal case does not automatically render a civil case irrelevant, and vice-versa. Even otherwise, it is relevant to note that even by the date of filing of the suit the said criminal case was pending and thus, the petitioners/plaintiffs were at liberty to cross-examine DW1 in connection with the aforesaid criminal case but they did not come forward.

15. Upon an overall consideration of the material available on record, this Court is of the view that the petitioners have to establish any *bonafide* necessity warranting further cross-examination of DW1. On the contrary the applications filed by the petitioners appear to have been filed to fill up the omissions or lacunae in the evidence of DW1 under the guise of further cross-

examination, which cannot be permitted in view of the ratio laid down by Hon'ble Supreme Court in *Bagai Construction*, through its proprietor *Lalit Bagai v. Gupta Building Material Store*³ wherein it was held as follows:

"14. The perusal of the materials placed by the plaintiff which are intended to be marked as bills have already been mentioned by the plaintiff in its statement of account but the original bills have not been placed on record by the plaintiff till the date of filing of such application. It is further seen that during the entire trial, those documents have remained in exclusive possession of the plaintiff but for the reasons known to it, still the plaintiff has not placed these bills on record. In such circumstance, as rightly observed by the trial court at this belated stage and that too after the conclusion of the evidence and final arguments and after reserving the matter for pronouncement of the judgment, we are of the view that the plaintiff cannot be permitted to file such applications to fill the lacunae in its pleadings and evidence led by him. As rightly observed by the trial court, there is no acceptable reason or cause which has been shown by the plaintiff as to why these documents were not placed on record by the plaintiff during the entire trial. Unfortunately, the High Court taking note of the words "at any stage" occurring in Order 18 Rule 17 casually set aside the order of the trial court, allowed those applications and permitted the plaintiff to place on record certain bills and also granted permission to recall PW 1 to prove those bills. Though power under Section 151 can be exercised if ends of justice so warrant and to prevent abuse of process of court and court can exercise its discretion to permit reopening of evidence or recalling of witness for further examination/cross-examination after evidence led by the parties, in the light of the information as shown in the order of the trial court, namely, those documents were very well available

³ (2013) 14 SCC 1

throughout the trial, we are of the view that even by exercise of Section 151 CPC, the plaintiff cannot be permitted."

16. The learned Trial Court while dismissing both the applications correctly placed reliance on the judgment of the High Court of Andhra Pradesh in *Nagamotu Sriharinath versus Nagumotu Vani*⁴, wherein it was held that recalling a witness for further cross examination on the ground that counsel did not put certain material questions to the witness when he was cross examined as he was not properly briefed by the party, is not at all relevant ground for recalling the witness.

V. CONCLUSION:

17. In view of the foregoing discussion, this Court is of the considered view that there is no infirmity or error in the impugned order passed by the learned Trial Court and the impugned orders are well founded and are consistent with settled law. Thus, these Civil Revision Petitions are devoid of merits and liable to be dismissed.

VI. RESULT:

18. Accordingly, both the Civil Revision Petitions are dismissed. In the circumstances of the case, there shall be no order as to costs.

⁴ 1997 (5) ALT 209

Pending miscellaneous applications, if any, shall stand closed.

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SD/- P.C. SULEKHA DEVI
ASSISTANT REGISTRAR



SECTION OFFICER

To,

1. The I Additional District Judge, at Nizamabad.
 2. One CC to SRI. T GANGADHAR Advocate [OPUC]
 3. One CC to SRI. P LAKSHMA REDDY Advocate [OPUC]
 4. Two CD Copies
- Ge/BA



HIGH COURT
DATED: 06/05/2026

COMMON ORDER
CRP.Nos.1505 OF 2022
AND
CRP.No. 1509 OF 2022



DISMISSING THE CRP.Nos.1505 OF 2022 WITHOUT COSTS
AND
DISMISSING THE CRP.No. 1509 OF 2022 WITHOUT COSTS


3/7/26