

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

MAIN CASE NO: **Second Appeal No.488 of 2023**

**PROCEEDING SHEET**

<b>SL. NO</b>	<b>DATE</b>	<b>ORDER</b>	<b>OFFICE NOTE</b>
18.	25.02.2026	<p><b><u>RY,J</u></b></p> <p style="text-align: center;"><b><u>S.A.No.488 of 2023</u></b></p> <p>1. Heard Sri Vedula Srinivas, learned Senior Counsel representing Ms. Vedula Chitralekha, learned counsel for the appellants.</p> <p>2. None for the respondents.</p> <p>3. Respondent No.2 herein-B.Kishan (deceased) filed suit in O.S.No.1221 of 1997 against respondent No.1 herein-B.Pandu and another seeking specific performance with respect to suit schedule property consisting of house bearing No.102 B, L.I.G.H. (8-3-191/240), Vengal Rao Nagar, Hyderabad and the said suit has been decreed on 25.09.2000.</p> <p>4. Aggrieved by the same, respondent No.1 herein filed appeal in C.C.C.A.No.211 of 2000 on the file of this Court. The said C.C.C.A. ended in compromise on 18.11.2005.</p>	<p>Transferred to Daily order/I/O folder before correction.</p>

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		<p>5. Meanwhile, the claim petitioner-B.Mohan Reddy (deceased-appellants herein are his legal representatives), who is brother of respondent Nos.1 and 2 also sought for share in the suit schedule property by way of filing C.C.C.A.Misc. Petition No.21035 of 2002 in the said C.C.C.A. While recording the compromise decree, this Court gave liberty to the claim petitioner to file a claim petition to enforce his rights if any, over the suit schedule property.</p> <p>6. Immediately, the claim petitioner filed a claim petition in I.A.No.329 of 2007 and the same was dismissed on the technical ground that E.P. has to be filed for claim petition to be maintained. Therefore, the claim petitioner filed E.A.No.65 of 2012 after E.P.No.21 of 2010 was filed by respondent No.1 herein. The claim petition filed <i>vide</i> E.A.No.65 of 2012 was dismissed by the learned I Senior Civil Judge, City Civil Court, Hyderabad, <i>vide</i> order dated 18.12.2017 on the ground of <i>res judicata</i> as the prior claim petition was dismissed.</p> <p>7. The same was carried in appeal in</p>	

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		<p>A.S.No.18 of 2018 on the file of the learned XXV Additional Chief Judge, City Civil Court, Hyderabad, and the said appeal was also dismissed confirming the order and decree dated 18.12.2017 in E.A.No.65 of 2012 in E.P.No.21 of 2010.</p> <p>8. Aggrieved by the said judgment and decree in A.S.No.18 of 2018, the present Second Appeal is preferred by the legal representatives of the claim petitioner agitating for allotment of 1/3<sup>rd</sup> share in the suit schedule property to them being legal representatives of the deceased-claim petitioner, on account of their longstanding possession from the year 1981 onwards and that their rights were not adjudicated independently as contemplated under Order XXI Rule 97 read with Rule 101 of C.P.C.</p> <p>9. In that context, the following substantial questions are raised before this Court for consideration:</p> <p>“(1)Whether the Courts below are justified in rejecting the claim petition despite the admitted fact that the claim petitioner has been in possession of the suit property since 1980 and the parties to the suit were never in possession of the suit property?</p> <p>(2) Whether the Courts below are</p>	

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		<p>justified in dismissing the claim petition ignoring the scope of Order XXI Rules 97 and 101 of C.P.C., which requires the Court to decide the claim petition as if it is an independent suit and the right, title and interest of the claim petitioner is to be adjudicated exclusively?”</p> <p>10. <b>Admit.</b></p> <p>11. Call of records from the Courts concerned.</p> <p>12. List on 25.03.2026 for hearing.</p> <p style="text-align: center;"><b><u>I.A.No.1 of 2023</u></b></p> <p>1. Heard Sri Vedula Srinivas, learned Senior Counsel representing Ms. Vedula Chitralekha, learned counsel for the appellants/petitioners.</p> <p>2. The present Second Appeal is preferred aggrieved by dismissal of A.S.No.18 of 2018 on the file of the learned XXV Additional Chief Judge, City Civil Court, Hyderabad, by way of judgment and decree dated 27.06.2023, wherein the dismissal of the claim petition filed by B. Mohan Reddy-deceased (appellants herein are his legal representatives) in E.A.No.65 of 2012 in E.P.No.21 of 2010 was confirmed.</p>	

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		<p>3. Along with the Second Appeal, the present application is filed under Section 151 of C.P.C. to stay all further proceedings in E.P.No.21 of 2010 on the file of the learned I Senior Civil Judge, City Civil Court, Hyderabad. Meanwhile, it is submitted by the learned Senior Counsel for the appellants/petitioners that the E.P. itself is disposed of.</p> <p>4. In the circumstances stated and in view of the substantial questions of law framed in the present Second Appeal, the petitioners herein/appellants shall not be dispossessed from the suit schedule property consisting of house bearing No.102 B, L.I.G.H. (8-3-191/240), Vengal Rao Nagar, Hyderabad, till the next date of hearing.</p> <p>5. List on 25.03.2026.</p> <p style="text-align: right;">_____ <b>RY,J</b></p> <p>GVR</p>	