

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

**WEDNESDAY, THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION NO: 7369, 7360 AND 7483 OF 2018

CIVIL REVISION PETITION NO: 7369 OF 2018 :

Petition Under Article 227 of the constitution of India against the Order dated 22-10-2018 Passed in I.A. No. 788 of 2018 in O.S. No. 1588 of 2009 on the file of the Court of the IV Junior Civil Judge, City Civil Court, Hyderabad.

Between :

G.Balaiah @ Aggu Balaiah, S/o. G.Pentaiah, Aged about 72 years, Occ- Retd. Govt. Service, R/o. H. No. 6-1-271, Khairtabad, Hyderabad.

...Petitioner/Plaintiff

AND

1. K.Anasuyamma, W/o.Late K.Achaiah, aged 68 years, Occ - Household, Rio. H. No. CIB Quarter No. 14B, MCH No.6-1-269, A.P. Housing Board, Khairtabad, Hyderabad.
2. K.Sitamma, W/o. Late K.Achaiah, aged 78 years, Occ - Household, R/o. H. No. CIB Quarter No.14B, MCH No.6-1-269, A.P. Housing Board, Khairtabad, Hyderabad.
3. K.Karan Kumar Yadav, S/o. K. Narsing Rao, aged about 38 years, R/o. CIB Q.No.12B, H.NO.6-1-225, Khairtabad, Hyderabad.

(R3 set exparte as per c.o dt.28/10/2025)

4. The Commissioner, G.H.M.C., Tankbund, Hyderabad

(Respondents No.1,2 & 4 not necessary parties)

...Respondents/Defendants

CIVIL REVISION PETITION NO: 7360 OF 2018 :

Petition Under Article 227 of the constitution of India against the Order dated 22-10-2018 Passed in I.A. No. 789 of 2018 in O.S. No. 1588 of 2009 on the file of the Court of the IV Junior Civil Judge, City Civil Court, Hyderabad.

Between :

G.Balaiah @ Aggu Balaiah, S/o. G.Pentaiah, Aged about 72 years, Occ- Retd. Govt. Service, R/o. H. No. 6-1-271, Khairtabad, Hyderabad.

...Petitioner/Plaintiff

AND

1. K.Anasuyamma, W/o. Late K.Achaiah, aged 68 years, Occ Household, R/o. H. No. CIB Quarter No. 14B. MCH No.6-1-269, A.P. Housing Board, Khairtabad, Hyderabad.
2. K.Sitamma, W/o. Late K. Achaiah, aged 78 years, Occ Household, R/o. H. No. CIB Quarter No. 14B. MCH No.6-1-269. A.P. Housing Board, Khairtabad, Hyderabad.
3. K.Karan Kumar Yadav, S/o. K. Narsing Rao, aged about 38 years, R/o. CIB Q. No. 12B, H.No.6-1-225, Khairtabad, Hyderabad.
4. The Commissioner, G.H.M.C, Tankbund, Hyderabad.

(Respondents No. 1,2, and 4 are not necessary parties)

...Respondents/Defendants

IA NO: 1 OF 2018

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 grant stay of all further proceedings in O.S No. 1588 of 2009 on the file of the IV Junior Civil Judge, City Civil Court, Hyderabad pending disposal of the subject Civil Revision petition.

CIVIL REVISION PETITION NO: 7483 OF 2018 :

Petition Under Article 227 of the constitution of India against the Order dated 22-10-2018 Passed in I.A. No. 787 of 2018 in O.S. No. 1588 of 2009 on the file of the Court of the IV Junior Civil Judge, City Civil Court, Hyderabad.

Between :

G.Balaiah @ Aggu Balaiah, S/o. G.Pentaiah, Aged about 72 years, Occ- Retd. Govt. Service, R/o. H. No. 6-1-271, Khairtabad, Hyderabad.

...Petitioner/Plaintiff

AND

1. K.Anasuyamma, W/o. Late K.Achaiah, aged 68 years, Occ Household, R/o. H. No. CIB Quarter No. 14B. MCH No.6-1-269, A.P. Housing Board, Khairtabad, Hyderabad.

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2. K.Sitamma, W/o. Late K. Achaiah, aged 78 years, Occ Household, R/o. H. No. CIB Quarter No. 14B. MCH No.6-1-269. A.P. Housing Board. Khairtabad, Hyderabad.
 3. K.Karan Kumar Yadav, S/o. K. Narsing Rao, aged about 38 years, R/o. CIB Q. No. 12B, H.No.6-1-225, Khairtabad, Hyderabad.
 4. The Commissioner, G.H.M.C, Tankbund, Hyderabad.

(Respondents No. 1,2, and 4 are not necessary parties)

...Respondents/Defendants

IA NO: 1 OF 2018

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 grant stay of all further proceedings in OS.No.1588 of 2009 on the file of the IV Junior Civil Judge,CCC,Hyderabad,pending disposal of the subject CRP.

Counsel for the Petitioner in all CRPs : Sri Mohd Rafee

**Counsel for the Respondents in all CRPs : Sri P.S.Tejas,
representing Sri Naga Anil Kumar**

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
CIVIL REVISION PETITION Nos.7369, 7360 and 7483 of 2018

DATE: 17.12.2025

Between:

G. Balaiah

...Petitioner

AND

K. Anasuyamma and 3 others

...Respondents

COMMON ORDER

These Civil Revision Petitions are filed by the petitioner under Article 227 of Constitution of India aggrieved by the orders passed in I.A.Nos.788, 789 and 787 of 2018 in O.S.No.1588 of 2009 on the file of IV Junior Civil Judge, City Civil Court, Hyderabad.

2. Heard **Sri Mohammad Rafee**, learned counsel for the petitioner and **Sri P.S. Tejas**, learned counsel representing **Sri Naga Anil Kumar**, learned counsel for the respondents.

3. The I.A.No.788 of 2018 is filed to recall the order dated 19.09.2018 and to set-aside the order of forfeiting the right of cross-examination of DW-1 and I.A.No.787 of 2018 is filed to

reopen the matter for the purpose of cross-examination of DW-1 and I.A.No.789 of 2018 is filed to recall the DW-1 for the purpose of cross-examination of DW-1. As the three applications are arising out of the same suit, the I.A.Nos.787 and 788 of 2018 were ordered to be closed in view of the order passed in I.A.No.789 of 2018. Therefore, the C.R.P.No.7360 of 2018 would be the leading case which is filed against the order passed in I.A.No.789 of 2018 in O.S.No.1588 of 2009 and the result of remaining two petitions depends upon the result of this present petition.

4. The C.R.P.No.7360 of 2018 is filed by the petitioner/plaintiff in the suit wherein the said suit was filed for mandatory injunction against the defendants in respect of removal of manhole.

5. During the pendency of the suit, when the matter was posted for cross-examination of DW-1, it is reported that despite granting sufficient time, the plaintiff did not choose to cross-examine the DW-1. Accordingly, the cross-examination of DW-1 was closed. Immediately thereafter, the present I.A. was filed contending that on 19.09.2018, the suit was posted for cross-

examination of DW-1 along with O.S.No.4516 of 2008. In the said suit, the matter was for continuation of cross-examination of DW-1, and the DW-1 was partly cross-examined by his counsel till 2.00 p.m. Thereafter, the matter was passed over for further continuation of the cross-examination of DW-1 along with the cross-examination of DW-1 in the above suit as the witness in both the cases are same.

6. The petitioner therein and plaintiff in the main suit contended that his counsel was held up in Ranga Reddy District Court, as such the petitioner also could not appear when the matter was called and as the plaintiff also could not appear as he was unwell and was hospitalized for a long time and had undergone Cardiovascular procedure, he was advised by the Doctors to take rest to recover his health, as such he could not appear before the learned trial Court. He further contended that the learned trial Court forfeited his right of further cross-examination and posted the matter for arguments without providing any opportunity. Hence, prayed this Court to allow the revision petition by setting aside the order passed by the learned trial Court.

7. Respondent No.3/defendant filed a counter affidavit denying all the allegations, averments, and contentions made in the affidavit filed in support of the petition filed by the petitioner/plaintiff. It was further contended that the learned trial Court had partly heard the arguments of his counsel on 26.09.2018 and thereafter posted the matter for further arguments. But, the petitioner filed the present applications on 03.10.2018. Though the matter was posted for cross-examination, the learned counsel for the respondent contended that the learned trial Court had entrusted the said cross-examination to an Advocate Commissioner. However, despite the lapse of three months, the cross-examination could not be proceeded with. Considering the conduct of the plaintiff in cross-examining the DW-1, the learned trial Court had forfeited the right of cross-examination which needs no interference and prayed this Court to dismiss the Civil Revision Petition.

8. It is observed that the trial Court, after hearing the submissions and upon considering the pleadings of both parties, came to the conclusion that the reasons cited by the petitioner

were not supported by any documentary evidence and that the other reasons assigned by the petitioner appears to be insufficient. The learned trial Court did not find any *bona fide* reason to allow the petition. Accordingly, the learned trial Court dismissed the petition.

9. The contention of the petitioner is that the trial Court ought to have held that O.S.No.4516 of 2008 which is instituted for relief of mandatory injunction for demolition of the illegal structures on road in respect of Schedule-A, Schedule-B and Schedule-C properties and cross-examination by the petitioner pertaining to Sale Deeds, municipal permits and sanctioned plans, A.P. Housing Board Layout, therefore the trial Court could not conclude the cross-examination on DW-1 as it require several hearings and much time for cross-examination of DW-1 and after the completion of the cross-examination on DW-1, the petitioner counsel was to begin cross-examination in O.S.No.1588 of 2009. Aggrieved by the dismissal of petition in O.S.No.4516 of 2008 for reopen, set-aside the order of forfeit the petitioner's right for further cross-examination on DW-1 and recall DW-1, the petitioner preferred revision petitions under C.R.P.Nos.6439,

6440 and 6452 of 2018 and the said revision petitions are allowed by the Hon'ble High Court and further the learned trial Court failed to consider the fact that the petitioner was present on every date of hearing before the Advocate Commissioner and cross-examined DW-1 on 26.07.2018 and 09.08.2018.

10. Having heard the learned counsel for the revision petitioner and the respondents, it is seen that the learned counsel for Respondent No.3 opposed the revision petition contending that, despite sufficient time was granted, the petitioner/plaintiff failed to cross-examine DW-1 and it is only as matter of delay tactics by the petitioner/plaintiff to prolong the proceedings.

11. Per contra, the learned counsel for the petitioner contended that the petitioner was sincerely cross-examined the DW-1 on the very same day, when DW-1 was examined both in O.S. No.4516 of 2008 and in the present suit. It was further submitted that on the day fixed for continuation of cross-examination, the matter was passed over and subsequently called when the petitioner's counsel could not appear, as he was held-up in the Ranga Reddy District Court. It was also contended that the petitioner was not feeling well on the said date. The learned counsel for the

petitioner has relied upon the judgment of this Court in C.R.P.No.6639 of 2018 which was filed aggrieved by the order dated 03.10.2028 in I.A.No.745 of 2018 in O.S.No.4516 of 2008 passed by the IV Junior Civil Judge, City Civil Court, Hyderabad, whereby the learned trial Court had dismissed the petition filed under Order XVIII Rule 17 CPC, for recalling DW-1 for continuation of the cross-examination. Recording the aforementioned observations, the Co-ordinate Bench of this Court, disposed of the Civil Revision Petition by "granting the petitioner to cross-examine the DW1 in a single day and to pay an amount of Rs.2,000/-, prior to the commencement of the cross-examination and the parties are directed to appear before the trial Court on 05.12.2018 which was fixed by the trial Court. The petitioner was directed to ensure that the cross-examination is completed on that particular day, failing which, no further opportunity to cross-examine DW.1 shall be given to the petitioner. Once the cross-examination of DW.1 is over, the learned Trial Court is directed to rehear the final arguments of the parties, and to pass its judgment and decree within one

month from the date of hearing of the final arguments of the parties”.

12. Though the record discloses that the learned trial Court granted nearly three months time to the petitioner to cross-examine the sole witness DW-1 and also facilitated the petitioner by appointing an Advocate Commissioner for recording the cross-examination, it is noted that the cross-examination could not be concluded and adjournments were sought on more than one occasion.

13. The learned counsel for the respondents also raised that the suit pertains to the year 2009 and by granting another opportunity would cause further delay. However, this Court is of the considered opinion that the right to cross-examine a witness is a valuable and substantive right, which cannot be curtailed on mere technicalities, particularly when the denial of such right may result in prejudice. In view of the various catena of judgments of the Hon'ble Supreme Court, has consistently held that denial of an effective opportunity of cross-examination affects the principles of natural justice.

14. Considering the present set of facts and circumstances of the case, including the conduct of the petitioner/plaintiff and the apprehension expressed by the respondents and protecting the interest of both the parties, this Court is of the view that the petitioner can be permitted to cross-examine DW-1 granting one more final opportunity to the petitioner, subject to conditions safeguarding the interest of the respondents.

15. Accordingly, the Civil Revision Petition is allowed, and the order passed by the learned IV Junior Civil Judge, City Civil Court, Hyderabad, in I.A. No.789 of 2018 in O.S. No.1588 of 2009 is hereby set aside, subject to the following conditions:

- i. The parties are directed to appear before the trial Court on 29.12.2025.
- ii. The petitioner/plaintiff shall conclude the cross-examination of DW-1 on the same day, at one continuous stretch, without seeking any adjournment.
- iii. The petitioner shall pay costs of Rs.5,000/- (Rupees Five Thousand only) directly to DW-1 on the same day, prior to commencement of cross-examination.

16. It is made clear that failure to comply with any of the above conditions shall result in dismissal of the petition without further reference to this Court.

17. Recording the above said submissions, this Civil Revision Petition i.e., C.R.P.No.7360 of 2018 is allowed. Subsequently, the remaining two Civil Revision Petitions i.e., C.R.P.Nos.7369 and 7483 of 2018 are also allowed which is for reopening the evidence of the defendants and recalling the DW-1 for further cross-examination.

Miscellaneous applications, if any, pending in this appeal shall stand closed.

Sd/- S. MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The IV Junior Civil Judge, City Civil Court, Hyderabad.
2. One CC to Sri Mohd Rafee, Advocate [OPUC]
3. One CC to Sri Naga Anil Kumar, Advocate [OPUC]
4. Two CD Copies

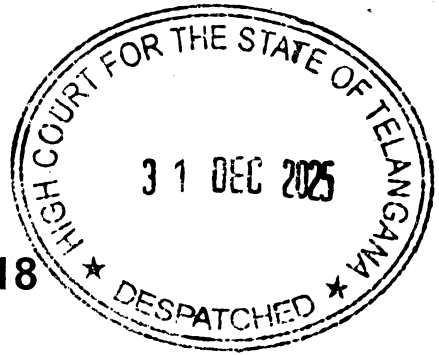
svs

HIGH COURT

DATED:17/12/2025

COMMON ORDER

CRP.No.7369, 7360 AND 7483 of 2018



ALLOWING ALL THE CRPs

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31/12/25