



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

**TUESDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION NO: 7499 OF 2017

Petition under Article 227 of the Constitution of India aggrieved by the Order dated 20-11- 2017 Passed in I.A.No. 120 OF 2014 in OS No. 15 of 2003 on the file of the learned Junior Civil Judge, At Yellareddy, Nizamabad District.

Between:

Thota Pochaiah S/o Lingaiah, aged 61 years, Occ: Conductor in APSRTC, Banswada Depot, R/o Kalalgally, Yellareddy village & Mandal, Nizamabad District, presently residing at H.No. 2-2-104/78, Macha Bollaram, Alwal, Hyderabad.

...Petitioner/Respondent/Defendant No.1

AND

1. Padigela.Sangameshwer S/o Shankaraiah, aged 71 years, Occ: Business, R/o. Yellareddy village and Mandal, Nizamabad District.

...Respondent/Petitioner/Plaintiff

2. Pogula Bhumaiah, S/o Parvaiah, aged 63 years, Occ: Agriculture, R/o Yella Reddy village and Mandal, Nizamabad District.

...Respondent/Respondent No.2/Defendant No.2

(Respondent No.2 is not necessary)

I.A. NO: 1 OF 2019

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 pass appropriate orders by extending the interim orders granted in CRP.NO.7499//2017 dated 19-01-2018 until further orders in the above criminal petition in the facts and circumstances of the case.



2026:TSHC:12558

Counsel for the Petitioner: Sri. V. Ravi Kiran Rao

Counsel for the Respondent No.1: Sri. Y. Ashok Raj

The Court made the following: ORDER



2026:TSHC:12558

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

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION No.7499 of 2017

DATE: 24.03.2026

Between:

Thota Pochaiah

...Petitioner

AND

Padigela Sangameshwer and another

...Respondents

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India aggrieved by the Order dated 20.11.2017 in I.A.No.120 of 2014 in O.S.No.15 of 2003 on the file of the learned Junior Civil Judge, at Yellareddy, Nizamabad District.

2. Heard **Sri V. Ravi Kiran Rao**, learned Senior Counsel appearing for the revision petitioner and **Sri Y. Ashok Raj**, learned counsel appearing for respondent No.1. Perused the entire material on record.



3. For the sake of convenience, the parties hereinafter referred to, as they are arrayed before the Trial Court.

4. The brief facts of the case are that the plaintiff/respondent No.1 herein filed a suit i.e., O.S.No.15 of 2003 for perpetual injunction to restrain the defendants from interfering into the peaceful possession of the plaintiff, who is the absolute owner and possessor of the land bearing Sy.No.434/14 admeasuring Ac.1-00 guntas out of Ac.1-30 guntas situated in the shivar of Yellareddy Village and Mandal and along with suit, I.A.No.57 of 2003 was also filed for temporary ad-interim injunction against the defendants, claiming that defendant No.1/petitioner herein is the absolute owner of the land admeasuring Ac.1-30 guntas in Sy.No.434/14. But, out of this total extent, defendant No.1 filed a suit for an extent of only Ac.1-00 guntas, leaving apart 30 guntas, which was in possession as there was no denial of ownership and interference by the plaintiff/respondent in respect of the said 30 guntas.



5. The learned trial Court passed an order of *status quo* in I.A.No.57 of 2003 dated 14.10.2003 to maintain by the defendants. Despite the *status quo* order, it is submitted that the defendants criminally trespassed and illegally occupied the suit land to an extent of Ac.1-00 guntas and filed I.A.No.133 of 2006, wherein an Advocate Commissioner i.e., an Assistant Surveyor, Survey Settlement Land Records, Nizamabad was appointed to demarcate the suit land and he had conducted a panchanama and submitted a report in the month of February 2012 along with the tonch map in which it was noticed that there was an encroachment of Ac.0-32 guntas in Sy.No.434/14 on behalf of defendant No.1 i.e., Thota Pochaiah, S/o. Parvaiah.

6. It is further contended that defendant No.1 occupied the land of Ac.1-00 guntas out of Ac.1-30 guntas by disobeying and violating the orders of the *status quo*. The said encroachment was occurred during the pendency of the suit, as such to avoid multiplicity of filing suit the plaintiff filed I.A.No.120 of 2014 seeking relief to amend the suit reliefs from perpetual injunction



to the relief of declaration of title and recovery of possession against the defendants.

7. The defendant No.1 filed a counter affidavit in I.A.No.120 of 2014 denying the averments made in the application and contended that the plaintiff is not specific about the total extent of the land and contents of the petition are different with each other and self-contradictory. It is also further contended that the plaintiff has not explained the delay of two years when the alleged encroachment and occupation was made by the respondents in the month of January 2012. It is submitted that if the petition is allowed, it would change the nature of the suit and substitute a new cause of action and the subject matter of the suit, is not permissible under law and the other ground raised is that the petition filed was only to drag the suit proceedings, that too at the stage of commencement of trial.

8. The learned trial Court has raised the following points for consideration:

1. *Whether the petitioner is entitled for the relief as claimed for?*



2. *Whether the present petition is filed within limitation period as contended by the respondents?*

3. *To what relief?*

9. Having heard both the counsel and considered the entire material placed on record, the learned trial Court considering the Schedule 58 of the Limitation Act, the declaration sought for by the petitioner had been done within 3 years and when the right to suit first accrued and also the judgment of the then High Court of Andhra Pradesh in **P. DURGA REDDY AND ANOTHER Vs. B. YADI REDDY** in CRP No.1811 of 2014 dated 24.12.2014 and came to the conclusion that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. Hence, to avoid the multiplicity of the proceedings, the learned trial Court has allowed the application.

10. Aggrieved by the same, the present revision petition is filed on the grounds that allowing of the amendment of the plaint is bad in law and perverse, the facts and evidence on record and



the scope and intent of Order VI Rule 17 has not been considered and erroneously allowed the application on erroneous grounds. Therefore, the order under revision is illegal and unjustified. The learned trial Court ought to have seen that for the first time the plaintiff claim that he is the absolute owner and possessor of the land in Sy.No.434/14 to an extent of Ac.1-00 guntas in the shivar of Yellareddy Village and that instituting the original suit itself is not based on correct facts and the relief sought in the suit itself is wrong. The learned trial Court ought to have dismissed the application but erroneously allowed the same, ignoring the principles laid down by this Court and the Hon'ble Apex Court while deciding the cases arising under Order VI Rule 17 of CPC and there is also no reason assigned for the delay caused in filing the amendment petition and the learned trial Court, instead of rejecting the application without examining the same in proper perspective, allowed the same, which is a grave error committed by the learned trial Court in exercising the jurisdiction, even though it amounts to changing the nature of the suit and the fresh cause



of action and the other amendments which are also not tenable and unsustainable in the eye of law and finally prayed this Court to allow the present revision petition.

11. Learned Senior Counsel appearing for the petitioner has contended that the petition for amendment is not maintainable either in law or on facts and is liable to be dismissed in limine. Except for what is specifically admitted, all allegations in the petition are denied. While admitting the pendency of the suit, the petitioner/defendant No.1 asserts that the petition is based on false allegations and that the *status quo* order dated 14.10.2003 was only general in nature and did not establish possession in favour of respondent No.1.

12. It is further contended that respondent No.1, for the first time in the amendment petition, claims ownership of Ac.1.30 guntas in Sy.No.434/14, whereas in the original plaint the claim was restricted to Ac.1.00 guntas. According to petitioner/defendant No.1, this amounts to introducing a new case, which is not permissible. The allegations of interference,



trespass, and violation of *status quo* are denied, and the survey report relied upon by the petitioner is disputed as collusive, beyond the scope of the warrant, and legally untenable.

13. The petitioner/defendant No.1 also submits that the claim of encroachment is inconsistent with the pleadings in the suit and amounts to self-contradiction. The amendment has been sought after an unexplained delay of more than two years and appears to be an afterthought to cover lacunae in the plaint. If allowed, the amendment would fundamentally change the nature of the suit by introducing a new cause of action and altering the subject matter. Therefore, the petition is frivolous, misconceived, and liable to be dismissed.

14. Learned counsel for respondent No.1 has argued and contended that respondent No.1 herein filed a suit for perpetual injunction regarding land in Sy.No.434/14 measuring Ac.1-00 guntas out of Ac.1-30 guntas, along with an application for temporary injunction. The learned trial Court granted *status quo* orders on 14.10.2003, which were later made absolute on



28.11.2006. Despite the *status quo* order, the plaintiff allegedly trespassed and illegally occupied the suit land. A commissioner was appointed conducted a survey in I.A.No.133/2006 and confirmed the encroachment.

15. It is further contended that in view of the plaintiff's violation of Court orders and denial of the defendant's ownership, the defendant seeks amendment of the plaint to convert the relief from perpetual injunction to declaration of title and recovery of possession of Ac.1.00 guntas. The proposed amendment also includes pleadings regarding encroachment (cause of action dated 05.01.2012), along with necessary changes to valuation, Court fee, and the prayer for relief. Therefore, prayed to allow the petition.

16. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in **PEETHANI SURYANARAYANA AND ANOTHER V.**

**REPAKA VENKATARAMANA KISHORE AND OTHERS ¹ ,**

wherein the relevant portion is extracted hereunder:

The power of the court to allow such an application for amendment of the plaint is neither in doubt nor in dispute. Such a wide power on the part of the court is circumscribed by two factors viz. (i) the application must be bona fide; (ii) the same should not cause injustice to the other side; and (iii) it should not affect the right already accrued to the defendants.

17. Learned counsel for the respondent supported the Order passed by the learned trial Court and relied upon the judgments of the Hon'ble High Court of Telangana and Andhra Pradesh (united) in **P. DURGA REDDY AND ANOTHER V. B. YADI REDDY²**, the relevant paragraph is extracted hereunder:

From this undisputedly the trial is at the fag end of both suits clubbed together and the plaint schedule boundaries are disputing by the defendants of the suit in the specific performance suit O.S. No. 585 of 2007 and the same is there also in the evidence on plaintiffs side of O.S. No. 417 of 2007 where the suit in O.S. No. 585 of 2007 clubbed with for joint trial and the defendants in O.S. No. 585 of 2007 let in evidence as D.Ws 1 and 2 and also on their side D.Ws 3, 4 and 5 examined and the plaintiff in O.S. No. 585 of 2007 as D.W-1 in the chief examination not explained the same. It is no doubt, the contention of the revision petitioner who is the plaintiff in O.S. No. 585 of 2007 in seeking amendment of the two of the boundaries to the plaint schedule supra is that it could not be noticed even at that stage and it is only in the cross-examination page No. 36, para No. 2

¹ 2009 (11) SCC 308

² 2015 (4) ALT 420



it was elicited and in page 26, Para No. 3 of the written statement of the defendants in O.S. No. 585 of 2007, the defendants did not even dispute the boundaries. It is in fact, the proposed amendment sought for is not for Eastern and Western boundaries, but for North to change as South and South to change as North and not even to introduce any new names, but for saying the mistake occurred by inadvertence and unnoticed. It is no doubt true in the so called agreement for sale of which the suit for specific performance of O.S. No. 585 of 2007 maintained, the sale agreement does not contain boundaries and it is only in the plaint it is specified as part of S. No. 295 admeasuring Ac.0-20 guntas within the four boundaries and now sought for amendment of the boundary name mentioned as North as South and South as North. From this, there is nothing to show what grave prejudice being caused to the defendants in O.S. No. 585 of 2007 or plaintiffs in O.S. No. 417 of 2007 when they are disputing the very contract for sale in favour of plaintiff in O.S. No. 585 of 2007 and its enforceability and not even admitting of sale is only within the boundaries and by change of the Northern to Southern and Southern to Northern, it is inconsistent to the stand already taken in the plaint pleadings or causes thereby any grave prejudice to the opposite party. When such is the case, the amendment when required to resolve the real controversy and to avoid future complications in the event of success in execution or the like. It is clearly stated that it could not be noticed before pre-trial stage, that too when the defendants written statement in O.S. No. 585 of 2007 no way disputed the boundaries and its correctness. Thus, it can be said that the plaintiff in O.S. No. 585 of 2007 could not seek the amendment before commencement of trial despite due diligence, as it is noticed from the evidence let in, in the suits clubbed together after commencement of trial and when it is to resolve the real controversy as per the plaintiff in O.S. No. 585 of 2007 and when delay itself is not a ground to reject the amendment, the trial Court ought to have allowed the amendment, when it no way causes withdrawal of any inconsistent admission in the pleadings or grave prejudice to other side or changes the cause of action or nature of suit, but for the said delay to compensate. The lower Courts order



dismissing the amendment application now sought to be intervened in the revision within its limited scope for saying is improper exercise of jurisdiction vested and when it causes prejudice to the revision petitioners/plaintiffs in O.S. No. 585 of 2007, this Court has to interfere to set aside the order impugned in the order vide Shalini Shyam Shetty v. Rajendra Shankar Patil that was followed in Sameer Suresh Gupta v. Rahul Kumar Agarwal.

In view of the above judgment, it is held that amendment will be required to resolve the real controversy and to avoid future complication in the event of success in execution or the like. It is clearly stated that it could not be noticed before pre-trial stage, that too when the defendant's written statement in OS No.585 of 2007 nowhere disputed the boundaries and its correctness and thus, it can be said that the plaintiff in OS No.585 of 2007 could not seek the amendment before the commencement of trial despite due diligence.

18. He also relied upon the judgment of the High Court of Andhra Pradesh in **TATAVARTHI SIRISHA AND ANOTHER V. LAKSHMI VENKATESWARA EDUCATIONAL SOCIETY AND ANOTHER**³, the relevant paragraph is extracted below:

During hearing learned counsel for the petitioners would mainly contend that in the plaint the plaintiffs had categorically

³ 2023 (6) ALT 385



claimed that the alleged Sale Deed dated 05.02.009 is sham and concocted and the same is illegal. Therefore, the proposed amendment sought to be brought in the plaint with respect to the said cancellation of the sale deed dated 05.02.2009 could never be presumed to be an amendment which would prejudicially affect the rights of the defendants under the law of limitation. Moreover, the trial court ought to have considered Section 14 of the Limitation Act, 1963, in computing the period of limitation for the purpose of considering the relief sought for cancellation of sale deed. Further contended that the proposed amendment does bring any new cause of action on the new basis of new set of facts and more over, the proposed amendment is being sought for even before the commencement of the trial and therefore, the defendants would have ample opportunity to file their additional written statement if any with regard to those aspects. Hence the revision is liable to be allowed.

And also relied upon the judgment of the High Court of Andhra Pradesh in **ORUGANTI RAMULU AND ANOTHER V. P. RAVINDAR GOUD AND ANOTHER⁴**, the relevant paragraphs are extracted hereunder:

As discussed supra, there is no dispute with regard to purchase of suit schedule property by the plaintiffs and also execution of the aforesaid two registered agreements of sale-cum-General Power of Attorney in favour of the aforesaid G. Shankaraiah and D. Bheemaiah. It is also not in dispute with regard to purchase of land admeasuring Acs.2.08 guntas in Sy.No.7 by the vendors of the plaintiffs and the defendants. Therefore, according to this Court, there is no change in the nature of the suit. The petitioners/plaintiffs are seeking to amend the pleadings of suit from perpetual injunction to suit for declaration of title, recovery of possession and mandatory injunction to dismantle the basements.

⁴ 2023 (3) ALT 171 TS



Therefore, there is no change of nature of suit. Ultimately, the disputes between the plaintiffs and the defendants have to be resolved and real controversy has to be decided on consideration of the pleadings. The dominant purpose of allowing the amendment is to minimize the litigation.

In the present case, there were two options to the plaintiff viz: (i) filing of the fresh suit seeking declaration of title, recovery of possession and mandatory injunction to dismantle the basements and (ii) seeking amendments amending the plaint from perpetual injunction to declaration of title, recovery of possession and mandatory injunction to dismantle the basements. The petitioners/plaintiffs have opted to seek amendment. When filing of fresh suit is permissible, it is equally permissible to seek amendment of the plaint as held by the Hon'ble Apex Court in Sampath Kumar's case (supra).

In the present case, Trial Court dismissed the aforesaid application on the ground that in the written statement, the defendants clearly pleaded that since the date of purchase, they are in possession and enjoyment of the suit schedule property and the plaintiff constructed basements in the suit schedule property. Therefore, the plaintiffs cannot change their version by saying that before inspection by Advocate Commissioner, the defendants occupied the suit schedule property which proves that the plaintiffs are not in possession of the suit schedule property as on the date of filing of the suit and further held that by way of proposed amendments, the plaintiffs cannot change entire nature of the suit. The said finding is not based on the actual facts and law. Therefore, Trial Court cannot give said finding in IA No.555 of 2017 filed by the plaintiffs seeking amendment to plaint i.e., to implead the respondents as defendant Nos.3 to 21.

As stated supra, the suit of the year 2009. Despite service of notice, there is no representation on behalf of the respondents/defendants. It is also relevant to note that the petitioners herein have not made the purposed defendant Nos.3 to 21 as parties to the present revision. The only explanation given by



them is that in the Trial Court they have not appeared, but perusal of the impugned order would reveal that there is no mention of ordering notice and service of notice to proposed defendant Nos.3 to 21 and their non-appearance etc. Thus again there is procedural irregularity committed by the petitioners in filing the present revision without impleading the proposed defendant Nos.3 to 21. It is also relevant to notice that by ordering the application for impleadment of proposed defendant Nos.3 to 21 will not cause any prejudice to them. They will be given an opportunity of filing written statement and participate in the trial etc., in the aforesaid suit before the Trial Court. In the decision making process, if the Court, Tribunal or authority deciding the case, has ignored vital evidence and thereby arrived at erroneous conclusion or has misconstrued the provisions of the relevant Act or misunderstood the scope of its jurisdiction the Constitutional power of the High Court under Article 227 of the Constitution of India can be invoked to set right such errors and prevent gross injustice to the party. The said principle was also held by the Apex Court in State of Andhra Pradesh v. P.V. Hunumantha Rao, (2003) 10 SCC 456.

The Co-ordinate Bench of this Court, while discussing the scope of the amendment and considering on the principle of the said judgment, which is relied upon by the respondent, that no prejudice would be caused to the petitioner if the petition is allowed for amendment, as he would be having the scope to file the written statement and to participate in the trial, etc. In view of the judgments which are relied upon in the judgment of the Co-ordinate Bench of this Court, which has elaborately discussed about the scope of the amendment by relying upon



the catena of judgments and also the guidelines which are laid down in **LIFE INSURANCE CORPORATION OF INDIA V. SANJEEV BUILDERS PRIVATE LIMITED**⁵ at paragraph No.21 and also considering the judgment in **TRIMBOCK GU TELONG V. R.C.G**⁶ and **STATE OF KERALA V. SAROJINI AMMA**⁷ at paragraph No.30 in **ORUGANTI RAMULU AND ANOTHER** (4th cited supra).

19. This Court, considering the various judgments which dealt with the scope of its jurisdiction under the constitutional power of the High Court under Article 227 of the Constitution of India and held that it can be invoked to set aside such errors and prevent gross injustice to the party, and as held by the Hon'ble Supreme Court of India in **STATE OF ANDHRA PRADESH VS. P. HANUMANTHA RAO**⁸.

20. On perusal of the factual facts which are mentioned in the said judgment and the facts being similar in nature as in the

⁵ (2022) SCC OnLine SC 1128

⁶ (1997) 2 SCC 437

⁷ (2003) 8 SCC 526

⁸ 2003 (10) SCC 456



present case, as the parties are initially filed the suit permanent injunction and in spite of there being a *status quo*, the defendants encroached into the land, though there is a dispute raised in respect of the extent of the land encroached as per the report of the Commissioner.

21. Considering the fact that once there is a dispute regarding the title and the possession already being lost during the pendency of the suit, and the approach of the trial Court in allowing the application to bring the entire litigation to a logical end and allowed the application.

22. In view of the above discussion, this Court do not see any error committed by the trial Court in allowing the application and this Court is of the opinion that the revision petitioner has not made out any ground to interfere with the findings of the trial Court. Consequently, the points framed are answered accordingly in favor of the respondent herein and against the revision petitioner.



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23. Accordingly, this Civil Revision Petition is dismissed confirming the Order dated 20.11.2017 in I.A.No.120 of 2014 in O.S.No.15 of 2003 on the file of the learned Junior Civil Judge, at Yellareddy, Nizamabad District. There shall be no order as to costs.

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

SD/- B.REKHA RANI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Junior Civil Judge, At Yellareddy, Nizamabad District.
2. One CC to Sri. V. Ravi Kiran Rao, Advocate [OPUC]
3. One CC to Sri. Y Ashok Raj, Advocate [OPUC]
4. Two CD Copies

GNK/PSL



2026:TSHC:12558

HIGH COURT

DATED: 24/03/2026

ORDER

CRP.No.7499 of 2017



DISMISSING THE CRP WITHOUT COSTS

GMT
13/4/26