

APHC010402202025



IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)

[3332]

PRESENT  
THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI  
CIVIL REVISION PETITION NO: 1963/2025

**Between:**

1.AVVARU SANKARA RAO, S/O RAMULU, AGED ABOUT 70 YEARS,  
R/O D.NO.76-10/1-16-2, BHAVANIPURAM, VIJAYAWADA.

...PETITIONER

**AND**

1.ANNAPUREDDY PADMAVATHI, W/O NUKALA VIJAYA SANKAR,  
AGED ABOUT 61 YEARS, R/O SUNSHINE AVENUE, PRAGATHI  
NAGAR, KUKATPALLY, HYDERABAD.

2.GOGULAPATI MADHAVA RAO, AGED ABOUT 61 YEARS, R/O  
LAWYERS' STREET, VINUKONDA, PALNADU DISTRICT.

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India, praying that in the  
circumstances stated in the grounds filed herein, the High Court may be  
pleased to aggrieved by the order dated 17.3.2025 passed in I.A.No. 47 of  
2024 in O.S.No. 14 of 2015 by the Court of the Junior Civil Judge, Vinukonda

**IA NO: 1 OF 2025**

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  
pleased to stay all further proceedings in O.S.No. 14 of 2015 by the Court of  
the Junior Civil Judge, Vinukonda, pending disposal of the CRP and pass

**Counsel for the Petitioner:**

1.KOCHIRI RAJA SHEKAR

**Counsel for the Respondent(S):**

1.NUTHALAPATI MOHAN

**RESERVED ON**                      **20.02.2026**  
**PRONOUNCED ON**                **12.03.2026**  
**UPLOADED ON**                    **12.03.2026.**

**ORDER**

This Civil Revision Petition is filed questioning the legality and correctness of the orders dated 17.03.2025 passed in I.A.No.47 of 2024 in O.S.No.14 of 2015 by the learned Junior Civil Judge, Vinukonda.

2. The Civil Revision Petitioner is the petitioner/defendant no.1, respondent no.1 is respondent no.1/ plaintiff and respondent no.2 is the respondent no.2/defendant no.2 in I.A.No.47 of 2024 in O.S.No.14 of 2025 on the file of the Court of the learned Junior Civil Judge, Vinukonda.

3. In the suit filed by respondent no.1/plaintiff for permanent injunction vide O.S.No.14 of 2015, the defendant no.1 therein filed I.A.No.47 of 2024 under Order-26, Rule-9 CPC to appoint an Advocate Commissioner to note down the physical features in and around the suit schedule property. The respondent no.1/plaintiff resisted the same by filing counter contending that the petition has been filed after long gap of 10 years and has been filed without assigning any sufficient reason and further the issue involved in the suit is whether the plaintiff is in possession of the suit or not at the time of filing of the same, which has duly been proved by the plaintiff. The petition is devoid of merits and the same has been filed only to drag on the proceedings.

4. The learned trial Judge dismissed the petition holding that the respondent who contends that he has been in possession of the property has

to prove the same by adducing legally acceptable evidence and for the said purpose an Advocate Commissioner cannot be appointed and that too filing such a petition after lapse of 10 years is only to drag on the proceedings.

5. The said dismissal order is assailed in this Civil Revision Petition.

6. Heard Sri Kochiri Raja Shekar, learned counsel for the petitioner, and Sri Nuthalapati Mohan, learned counsel for respondent no.1/plaintiff.

7. Sri Kochiri Raja Shekar, learned counsel for petitioner, while reiterating the contents of the affidavit filed in support of the petition before the trial Court and the grounds of Civil Revision Petition would contend that since P.W.1 denied the suggestions made by the defendant during his cross-examination, appointment of an Advocate commissioner to note the physical features of the plaint schedule property is very much essential, which would aid the court in coming to the just conclusion while adjudicating the matter. He would further contend that the cross-examination evidence of P.W.1 necessitates appointment of Advocate commissioner and therefore, there is no delay in filing the petition, however the lower court in erroneous view of the matter came to a wrong conclusion that purpose of the petition was to prove possession, which infact was filed to note down the physical features of the property, and the learned trial Judge further erred in holding that the petition was filed 10 years after the suit. He would further contend that the

order of the trial court is erroneous and perverse and the same is liable to be set aside. Accordingly, prayed to allow the Civil Revision petition.

8. Sri Nuthalapati Mohan, learned counsel for respondent no.1, while reiterating the contents of the counter would contend that the petition was filed 10 years after filing of the suit that too without any sufficient reason and therefore, the petition is vexatious and filed only to drag on the matter. He would further contend that the learned trial Judge upon considering the purpose for which the Advocate Commissioner was sought to be appointed and the facts and circumstances of the case came to a right conclusion in dismissing the petition and the Civil Revision Petition being meritless deserves dismissal. Accordingly, prayed to dismiss the Civil Revision Petition.

9. Perused the material available on record and considered the submissions made by learned counsel for the parties.

10. The suit is filed for permanent injunction and the same was filed in the year 2015. The application for appointment of an Advocate Commissioner was filed in the year 2025 i.e. to say ten (10) years after filing of the suit. It is to be noted that whether there was delay in filing the petition for appointment of advocate commissioner should not be ascertained by taking into consideration the date of filing of the suit, but the date when the necessity for filing such petition had arisen is relevant for the said purpose. According to

the petitioner, since P.W.1 denied in her cross-examination the existence of toilet pit in the plaint schedule property and he as D.W.1 deposed that he did not file blur print or plan showing that the toilet pit or its pipeline is part and parcel of the property. The evidence let-in necessitated filing of the petition for appointment of Advocate commissioner and report of the commissioner would help in appreciating the evidence. D.W.1 was cross-examined on 05.10.2023 and the petition for appointment of commissioner was filed in the year 2024. Thus, the delay of ten (10) years for filing the petition cannot be made as a ground for dismissal of the petition, if it is found that appointment of commissioner would aid in appreciating the evidence in proper perspective and that it is not filed for the purpose of gathering evidence.

11. As rightly held by the learned trial Judge, Advocate Commissioner cannot be appointed to note down as to who is in possession and enjoyment of property or for gathering evidence, but the present petition has not been filed for such a purpose.

12. It is fairly settled that an Advocate Commissioner can be appointed in a suit for injunction to note down the physical features, localize, or demarcate the property. This action is permitted to help the court understand the local situation and is not considered a collection of evidence. Such appointments are discretionary based on necessity.

13. In the instance case, the petition is filed to note down the physical features of the plaint schedule property for better appreciation of the facts of the case and evidence let in by the parties. The petitioner wants to prove existence of a structure in the plaint schedule property by appointment of an Advocate commissioner, which can never be said to be either gathering of evidence or to note down his possession and enjoyment of the property. Therefore, the order impugned in this Civil Revision Petition is unsustainable and the same has to be set aside.

14. Accordingly, the Civil Revision Petition is allowed, setting aside the order dated 17.03.2025 passed in I.A.No.47 of 2024 in O.S.No.14 of 2015 by the learned Junior Civil Judge, Vinukonda. Consequently, I.A.No.47 of 2024 in O.S.No.14 of 2015 is allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

12<sup>th</sup> March, 2026.

**JUSTICE RAVI CHEEMALAPATI**  
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