

APHC010035102024



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

**[3332]**

**PRESENT:THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI**

**CIVIL REVISION PETITION NO: 789/2024**

**Between:**

1.MANDAVA NAGA VENKATA PURNACHANDRA RAO,, S/O LATE  
V.RAGHAVENDRARAO, AGED 58 YEARS, R/O D.NO.21/414/2,  
BHASKARAPURAM, MACHILIPATNAM.

**...PETITIONER**

**AND**

1.PUWADA BAPIRAJU, S/o Seshagirirao, Aged 70 years, R/o D.No.2-8,  
Chaitanyapuri, R.R.District, Hyderabad - 500060.

**...RESPONDENT**

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 call for the entire record from the IX Additional District and Sessions Judge, Krishna at Machilipatnam in I.A.No.546 of 2019 in A.S.No.90 of 2018 along with original plaint, written statement and issues. ii) To set-aside the order dated 28.11.2023 passed in I.A.No.546 of 2019 in A.S.No.90 of 2018 by the IX Additional District and Sessions Judge, Krishna at Machilipatnam while allowing I.A.No.546 of 2019 in A.S.No.90 of 2018 directing the IX Additional District and Sessions Judge, Machilipatnam to frame additional issue as claimed and iii) To issue

**IA NO: 1 OF 2024**

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 A.S.No.90 of 2018 on the file of IX Additional District and Sessions Judge, Krishna at Machilipatnam, during

pendency of the civil revision petition, while granting ad-interim stay of all further proceedings and pass s

**IA NO: 2 OF 2024**

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 fix an early date for hearing the above C.R.P.No.789/2024 and pass

**Counsel for the Petitioner:**

1.M.V.RAMANA KUMARI

**Counsel for the Respondent:**

1.AYESHA AZMA S

**The Court made the following:**

<b>RESERVED ON</b>	<b>16.03.2026</b>
<b>PRONOUNCED ON</b>	<b>29.04.2026</b>
<b>UPLOADED ON</b>	<b>29.04.2026</b>

**ORDER**

This Civil Revision Petition is filed questioning the legality and correctness of the order dated 28.11.2023 passed in I.A.No.546 of 2019 in A.S.No.90 of 2018 by the learned IX Additional District Judge, Machilipatnam.

2. The petitioner is the appellant and respondent is the respondent in A.S.No.90 of 2018, preferred against the decree and judgment passed in O.S.No.30 of 2011, wherein the petitioner is the defendant and respondent is the plaintiff.

3. The facts that led to filing of this Civil Revision Petition, in brief, are that the petitioner filed petition vide I.A.No.546 of 2019 in the appeal filed by him under Order XLI, Rule-25 CPC with a prayer to frame additional issues in the appeal, contending that the respondent filed the suit for declaration and recovery of possession basing on forged will dated 24.07.1997 said to have been executed by V.Tripura Sundari, who is vendor of the petitioner, and the said suit is contested by the defendant inter alia on the ground that the suit is barred by limitation since filed beyond 12 years, however the trial Court without framing proper issues and on erroneous appreciation of facts decreed the suit. The respondent resisted the petition by filing counter contending that all the pleas regarding additional issues were already argued and decided by

the trial Court and hence there is no need for framing any additional issues. That the petitioner, who did not make any effort before the trial Court for getting additional issues framed, since all his contentions were negated by the trial court, came forward with this petition only to drag on the matter. Upon considering the submissions and contents of the pleadings, the learned appellate Judge dismissed the petition. The said dismissal order has been assailed in this Civil Revision Petition.

4. Heard Ms.M.Nikitha, learned counsel, representing M.V.RamanaKumari, learned counsel for the petitioner, and Ms.Ayesha Azma, learned counsel for respondent.

5. Ms.M.Nikitha, learned counsel for petitioner, while reiterating the contents of the affidavit filed before the appellate Court and grounds of Civil Revision Petition would contend that despite raising specific plea regarding limitation, the trial court did not frame an issue as to the bar of claim by limitation and despite bringing it to the notice of the appellate court by way of filing of the petition, the learned appellate Judge erroneously dismissed the petition upon an improper finding that the trial Court had already recorded a finding as to limitation. She would further contend that as the learned appellate Judge by dismissing the petition filed for framing an important and

crucial issue regarding limitation on improper an incorrect reasoning, had abdicated his duty by disowning the responsibility of framing an issue, this Court while exercising supervisory jurisdiction has to interfere and cure the defect and accordingly, prayed to allow the Civil Revision Petition.

In support of her contentions, the learned counsel for petitioner relied on the decision in ***Raesh B.Desai and others vs. Bipin Vadilal Mehta and others***<sup>1</sup> and ***Ramrameshwari Devi &Ors vs Nirmala Devi &Ors***<sup>2</sup>

6. On the other hand, Ms. Ayesha Azma, learned counsel for respondent while reiterating the contents of the counter filed before the Appellate Court, would contend that Section 3 of the Limitation Act mandates the Courts to check limitation suomotu though not raised by the other side and the trial Court though had not framed a specific issue regarding limitation, decided it while determining the larger issue in question. She would further contend that since the question of limitation had already been considered and decided by the trial Court and other issues are legal issues, there is no need for framing separate issues as sought by the petitioner and the learned Appellate Judge had rightly dismissed the petition, and the said

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<sup>1</sup>. AIR 2006 Supreme Court 3672

<sup>2</sup>, (2011) 8 SCC 249

order does not require interference of this Court. Accordingly, prayed to dismissed the Civil Revision Petition.

In support of her contentions, the learned counsel relied on the decision in ***R.Nagaraj (dead) through LRs. And another vs. Rajmani and others***<sup>3</sup>.

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

8. In ***Ramesh B. Desai &Ors.*** (*supra 1*) relied on by the learned counsel for the petitioner, the Hon'ble Supreme Court ruled that under Order XIV Rule 2 of the CPC, only pure points of law regarding jurisdiction or statutory bars can be tried as preliminary issues. Mixed questions of fact and law, such as limitation, cannot be decided as preliminary issues and require a full trial. The judgment emphasizes that a suit cannot be dismissed at the threshold unless a legal bar is immediately apparent from the plaint.

9. In ***Ramrameshwari Devi &Ors*** (*supra 2*) relied on by the learned counsel for the petitioner, the Hon'ble Supreme Court emphasized that trial courts must actively scrutinize pleadings to frame issues diligently, rather than mechanically, to prevent frivolous litigation. The ruling dictates that careful,

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<sup>3</sup>. 2025 LiveLaw (SC) 416

early framing of issues can save years of litigation, necessitating the imposition of realistic costs when false or distorted pleadings are present.

10. In ***R. Nagaraj*** (supra 3) relied on by the learned counsel for respondent, the Hon'ble Supreme Court ruled that courts have a mandatory duty under Section 3 of the Limitation Act, 1963, to dismiss time-barred suits even if the defendant did not specifically raise the plea. The court emphasized that the failure to frame a formal issue on limitation does not prevent its consideration, setting aside a 25-year-old remand for failure to do so.

11. The above rulings of the Hon'ble Apex Court would suggest that mixed question of fact and law, such as limitation, cannot be decided as preliminary issues and require a full trial and that failure to frame a formal issue on limitation does not prevent its consideration.

12. Section 3 of the *Limitation Act, 1963*, mandates that any suit, appeal, or application filed after the prescribed limitation period must be dismissed by the court, even if limitation was not raised as a defense. Therefore, the Court, even though formal issue regarding limitation is not framed, must consider the aspect of limitation. In view of Section 3 of Limitation Act, 1963, the appellate Judge must also look into and consider the aspect of limitation.

13. As rightly held by the learned Appellate Judge in the impugned order the plea of limitation was considered and answered by the learned trial Judge and further the proposed issues have already been covered by the issues framed by the trial Court, and further they having being based on legal aspects, there is no necessity to frame the additional issues. Therefore, this Court finds no legal infirmity in the impugned order. The Civil Revision petition being meritless deserves dismissal.

14. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

29<sup>th</sup> April, 2026.

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**JUSTICE RAVI CHEEMALAPATI**

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