

APHC010175602025



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

[3332]

**PRESENT:THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI
CIVIL REVISION PETITION NO: 909/2025**

Between:

- 1.MURUKONDA SAROJINI, W/O LATE GARATAIAH AGED ABOUT 75 YEARS, R/O NAYUDUVARI PALEM, KARAMCHEDU MANDAL, BAPATIA DISTRICT.
- 2.NAYUDU ANJAMMA, W/O HARIBABU AGED ABOUT 57 YEARS, R/O NAYUDUVARI PALEM KARAMCHEDU MANDAL, BAPATIA DISTRICT.

...PETITIONER(S)

AND

- 1.DANDA VENKATESWARLU, S/O SUBBAIAH, AGED ABOUT 63 YEARS R/O THIMIRTHAPADU VILLAGE, KARAMCHEDU MANDAL, BAPATIA DISTRICT
- 2.MURUKONDA SRINIVASA RAO, S/O LATE GARATAIAH AGED ABOUT 53 YEARS, R/O MURUKONDAVARIVEEDHI INKOLLU VILLAGE AND MANDAL, BAPATIA 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 may be pleased to allow this Civil Revision Petition by setting aside the order of the Hon'ble Senior Civil Judge at Parchur, dated 20-02-2025 in LA No. 53 of 2025 in O.S No. 3 of 2019 pending on the file of the Senior Civil Judge at parchur and to pass

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 may be pleased stay the operation of the decree and order dated 20-02-2025 passed in I.A No. 53 of 2025 in O.S No. 3 of 2019 pending disposal of the main Civil Revision Petition and pass

IA NO: 1 OF 2026

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 May be pleased to extend the interim orders dated: 04-07-2025 granted in IA No. 01 of 2025 which was lapsed on 12.12.2025 and to pass

Counsel for the Petitioner(S):

1.GHANTA SRIDHAR

Counsel for the Respondent(S):

1.S GOPAL RAO

The Court made the following:

RESERVED ON 18.02.2026

PRONOUNCED ON 09.03.2026

UPLOADED ON 09.03.2026

ORDER

This Civil Revision Petition is filed challenging the legality and correctness of the order dated 20.02.2025 passed in I.A.No.53 of 2025 in O.s.No.3 of 2019 by the learned Senior Civil Judge, Parchur.

2. The Revision Petitioners are the respondents 1 and 2 /plaintiffs, while respondent no.1 is the petitioner/third party and respondent no.2 is respondent no.3/defendant in I.A.No.53 of 2025 in O.S.No.3 of 2019 on the file of the Court of the learned Senior Civil Judge, Parchur.

3. The facts that led to filing of this Civil Revision Petition, in brief, are that:

(i) In a suit filed by the petitioners/plaintiffs for partition against the respondent no.2/defendant vide O.S.No.3 of 2019, the petitioner, who was third party to the suit, filed petition under Order-1, Rule-10 and Section 151 of Code of Civil Procedure to implead him as defendant no.2 in the main suit contending that he purchased one of the items of the partition suit from Garataiah (husband of plaintiff no.1, father of plaintiff no.2 and defendant) and defendant under an agreement of sale dated 05.11.2017 and out of the said agreement of sale, he paid Rs.14,00,000/- out of the total consideration of Rs.15,00,000/-. It is further stated that the said Garataiah died intestate on 28.12.2017 and as the plaintiffs 1 and 2 and defendant, who are his Legal

heirs, did not come forward to execute sale deed he filed the suit vide O.S.No.12 of 2015 for specific performance. Therefore, he is the proper and necessary party to the suit for partition.

(ii) The plaintiffs 1 and 2 filed counter and the same was adopted by the defendant, contending that the agreement of sale is forged and fabricated one and hence prayed to dismiss the petition.

(iii) The learned trial Judge upon hearing the counsel, allowed the petition, holding that the truth or otherwise of the agreement of sale can be gone into in the main suit and in order to avoid multiplicity of proceedings and effective adjudication of the partition suit, presence of the petitioner is very much necessary.

(iv) The said order has been assailed in this Civil Revision Petition.

4. Heard Sri Ghanta Sridhar, learned counsel for the petitioners and Sri S.Gopal Rao, learned counsel for respondent no.1/third party.

5. Sri Ghanta Sridhar, learned counsel for the petitioners, in elaboration to the contents of the counter filed before the trial Court and grounds of revision would contend that the suit agreement of sale is a forged and fabricated documents created by respondent no.2 and the impleadment petition was got filed by respondent no.2. He would further contend that the petitioner is neither a necessary nor a proper party to the partition suit,

however the learned trial Judge without appreciating the facts in proper perspective allowed the petition. He would further contend that the impugned orders are unsustainable and they are liable to be set aside. Accordingly, prayed to allow the Civil Revision Petition.

6. On the other hand, Sri S.Gopal Rao, learned counsel for respondent no.1, while reiterating the contents of the affidavit filed in support of the petition filed before the trial Court, would contend that since the original owner sold the property to respondent no.1 under agreement of sale, he is a necessary and proper party to the partition suit filed by Legal Heirs of his Vendor. He would further contend that the learned trial Judge upon meticulous analysis of the facts of the case rightly allowed the petition and the well considered order does not require any interference of this Court. The Civil Revision Petition being meritless deserves dismissal and accordingly prayed to dismiss the Civil Revision Petition.

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

8. The petitioner no.1 is wife, petitioner nos.2 and respondent no.2 are daughter and son of one Garataiah. The respondent no.1 claims to have purchased the property from the said Garataiah and respondent no.2 under an agreement of sale, which is one of the items of the plaint schedule

properties of the partition suit filed by petitioners against respondent no.2. The said Garataiah died and after his death the petitioners filed partition suit against respondent no.2. The revision petitioner filed suit for specific performance of agreement of sale against petitioners and respondent no.2. The petitioner filed petition under Order-1, Rule-10 CPC to come on record as one of the defendants in the partition suit filed by petitioners. The learned trial Judge allowed the said petition.

9. In a suit for partition, purchaser of one of the items of the partition suit is neither a necessary nor a proper party, since he cannot have any say in the said suit and his presence or absence in the suit would not affect the effective adjudication of the partition suit, more particularly when the petitioner filed suit for specific performance against petitioners as well as respondent no.2.

10. The Supreme Court in catena of decisions observed that purchasers are entitled to be on record during final decree proceedings to ensure the specific portion they bought is allotted to their vendor's share, if possible.

11. However, the learned trial Judge upon misconception of the facts held that respondent no.1 is a proper and necessary party to the suit and allowed him to come on record. The respondent no.1 is no doubt generally considered a proper party and often a necessary party, specifically for the

purpose of working out equities in the final decree proceedings. Therefore, the order impugned is liable to be set aside.

11. In view of the facts and circumstances of the case, this Civil Revision Petition is allowed, setting aside the impugned order dated 20.02.2025 passed in I.A.No.53 of 2025 in O.S.No.3 of 2019 by the learned Senior Civil Judge, Parchur. Consequently, I.A.No.53 of 2025 in O.S.No.3 of 2019 on the file of the court of the learned Senior Civil Judge, Parchur shall stand dismissed. There shall be no order as to costs. However, this order does not preclude respondent no.1 from seeking his impleadment in final decree proceedings.

Pending miscellaneous petitions, if any, shall stand closed.

9th March, 2026.

JUSTICE RAVI CHEEMALAPATI
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