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APHC010041082023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3331]**
(Special Original Jurisdiction)

TUESDAY, THE 30th DAY OF JUNE 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NOs: 197 and 202 of 2023

C.R.P.NO: 197/2023

Between:

1. KAVITHA, W/O. PRAKASH, AGE ABOUT 40 YEARS,OCC. HOUSE WIFE, R/O ARANYAM KANDRIGA VILLAGE, NARAYANAVANAM MANDAL, CHITTOOR DISTRICT, NOW TIRUPATI DISTRICT.
2. ANITHA,, W/O SURENDRA, AGED ABOUT 38 YEARS, OCC. HOUSE WIFE, R/O D. NO.310, BENI STREET, NAGARI TOWN AND MUNICIPALITY. CHITTOOR DISTRICT. NOW TIRUPATI DISTRICT

...PETITIONER(S)

AND

1. K NAGARAJU, , S/O SREENIVASULU NAIDU, AGED ABOUT 54 YEARS, OCC. CULTIVATION,
2. K KRISHNAMOORTHY, (DIED)
3. K BHARATHI, W/O LATE KRISHNAMOORTHY, AGED ABOUT 54 YEARS, OCC. HOUSE WIFE,
4. K SIVA, S/O LATE KRISHNAMOORTHY, AGED ABOUT 29 YEARS, RESPONDENT NOS. 1, 3 AND 4 R/O V.K.R PURAM VILLAGE AND POST, NAGARI MANDAL, CHITTOOR DISTRICT, NOW TIRUPATI DISTRICT.

5. K LOKANADHAM NAIDU, (DIED),
6. K LAKSHMI, W/O K. LOKANADHAM NAIDU, AGED ABOUT 53 YEARS, OCC. HOUSE WIFE, R/O V.K.R PURAM VILLAGE AND POST, NAGARI MANDAL, CHITTOOR DISTRICT NOW TIRUPATI 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 Memorandum of Civil Revision Petition aggrieved by the order dt.27.12.2022 made in I.A.No.895/2022 in O.S.No.28/2016 on the file of the court of the Junior Civil Judge, Nagari

IA NO: 1 OF 2023

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 stay all further proceedings including trial in OS.No.28/2016 on the file of the court of the Junior Civil Judge, Nagari, pending the above revision and pass

Counsel for the Petitioner(S):

1. V SUDHAKAR REDDY

Counsel for the Respondent(S):

1. T JANARDHAN RAO

C.R.P.NO: 202/2023

Between:

1. KAVITHA, W/O. PRAKASH, AGE ABOUT 40 YEARS,OCC. HOUSE WIFE, R/O ARANYAM KANDRIGA VILLAGE, NARAYANAVANAM MANDAL, CHITTOOR DISTRICT, NOW TIRUPATI DISTRICT.
2. ANITHA,, W/O SURENDRA, AGED ABOUT 38 YEARS, OCC. HOUSE WIFE, R/O D. NO.310, BENI STREET, NAGARI TOWN AND MUNICIPALITY. CHITTOOR DISTRICT. NOW TIRUPATI DISTRICT.

...PETITIONER(S)

AND

1. K NAGARAJU, S/O SREENIVASULU NAIDU, AGED ABOUT 54 YEARS, OCC. CULTIVATION,
2. K KRISHNAMOORTHY, (DIED)
3. K BHARATHI, W/O LATE KRISHNAMOORTHY, AGED ABOUT 54 YEARS, OCC. HOUSE WIFE,
4. K SIVA, S/O LATE KRISHNAMOORTHY, AGED ABOUT 29 YEARS, RESPONDENT NOS. 1, 3 AND 4 R/O V.K.R PURAM VILLAGE AND POST, D.NO. 1-46 NAGARI MANDAL, CHITTOOR DISTRICT, NOW TIRUPATI DISTRICT.
5. K LOKANADHAM NAIDU, (DIED),
6. K LAKSHMI, W/O K. LOKANADHAM NAIDU, AGED ABOUT 53 YEARS, OCC. HOUSE WIFE, R/O V.K.R PURAM VILLAGE AND POST, NAGARI MANDAL, CHITTOOR DISTRICT NOW TIRUPATI 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 beg to present this Memorandum of Civil Revision Petition aggrieved by the order dt.27.12.2022 made in I.A.No.896/2022 in O.S.No.28/2016 on the file of the court of the Junior Civil Judge, Nagari

Counsel for the Petitioner(S):

1. V SUDHAKAR REDDY

Counsel for the Respondent(S):

1.

The Court made the following:

COMMON ORDER

Defendants 2 and 3 in the suit O.S.No.28 of 2016, filed the above two Civil Revision Petitions against the common order, dated 27.12.2022, passed in I.A.Nos.895 and 896 of 2022, by the learned Junior Civil Judge, Nagari.

2. For convenience, the parties herein shall be referred to as per their status in the suit O.S.No.28 of 2016.

3. Plaintiffs 1 and 2 instituted the aforementioned suit against defendants 1 and 2 seeking a perpetual injunction. Pending the suit, plaintiff No.2 died, and his legal representatives are brought on record as plaintiffs 3 to 5. Defendant No.1 also died, and his legal representatives are brought on record as defendants 3 and 4. After coming on record, defendants 3 and 4 filed separate written statement, in addition to the written statement filed by their father, defendant No.1.

4. After the closure of evidence of D.W.4, the matter was adjourned for further evidence of the defendants, if any. At that juncture, defendants 3 and 4 filed I.A.No.896 of 2022 under Section 151 of C.P.C. to reopen the evidence of the plaintiff and I.A.No.895 of 2022 under Order XVIII Rule 17 and Section 151 of the Code of the Civil Procedure, 1908 (C.P.C.) to recall P.Ws.1 and 2; for cross-examination on behalf of defendants 3 and 4.

5. In the affidavits filed in support of the petitions, it was contended, *inter alia*, that defendants 3 and 4 did not cross-examine P.Ws.1 and 2 and thus, prayed to reopen the evidence and recall the witnesses.

6. A counter affidavit was filed on behalf of plaintiff No.1. It was contended, *inter alia,* that defendants 1 and 2 cross-examined P.Ws.1 and 2 at length and the applications filed by defendants 3 and 4, the legal representatives of defendant No.1 are not maintainable.

7. The trial court, by common order, dated 27.12.2022, dismissed the applications. Aggrieved by the same, the above revisions were filed.

8. Heard Sri V. Sudhakar Reddy, learned counsel for the petitioners and Sri T. Janardhan Rao, learned counsel for respondents 1, 3 and 4.

9. Learned counsel for the revision petitioners would submit that defendants 3 and 4, were brought on record as the legal representatives of defendant No.1, and they filed a separate written statement, and hence, the cross-examination of P.Ws.1 and 2, is necessary.

10. Learned counsel for the respondent/plaintiff, on the other hand, contended that no reasons were assigned to recall the witnesses. The witnesses cannot be recalled to fill up lacunae. He would further submit that defendant No.1, father of defendants 3 and 4 already cross-examined the witnesses and hence, defendants 3 and 4 cannot maintain the applications.

11. The point for consideration is whether the common order dated 27.12.2022 suffers from any illegality, warranting the interference of this Court?

12. The plaintiffs filed suit for a perpetual injunction in the year, 2016. Pending the suit, defendant No.1 died, and as seen from the amended copy of the plaint, his legal representatives are brought on record on 04.03.2022. After the impleadment, defendants 3 and 4 filed a separate written statement.

13. As seen from the order of the trial Court at para No.6, no additional defence was raised by defendants 3 and 4. In fact, the trial Court also recorded a finding that P.W.s.1 and 2 were examined by defendant No.1, father of defendants 3 and 4, at length and in the absence of any subsequent development, recalling the witnesses for further cross-examination by defendants 3 and 4, who came on record as the legal representatives of defendant No.1, does not arise.

14. Section 151 of C.P.C. cannot be routinely invoked for reopening evidence or recalling witnesses. The Hon'ble Apex Court, in ***K.K. Velusamy v. N. Palanisamy***[1], summarized as follows:

> (*a*) Section 151 is not a substantive provision which *creates* or confers any power or jurisdiction on courts. It merely recognises the discretionary power inherent in every court as a necessary corollary for rendering justice in accordance with law, to do what is "right" and undo what is "wrong", that is, to do all things necessary to secure the ends of justice and prevent abuse of its process.
>
> (*b*) As the provisions of the Code are not exhaustive, Section 151 recognises and confirms that if the Code does not expressly or impliedly cover any particular procedural aspect, the inherent power can be used to deal with such situation or aspect, if the ends of justice warrant it. The breadth of such power is coextensive with the need to exercise such power on the facts and circumstances.
>
> (*c*) A court has no power to do that which is prohibited by law or the Code, by purported exercise of its inherent powers. If the Code contains provisions dealing with a particular topic or aspect, and such provisions either expressly or by necessary implication exhaust the scope of the power of the court or the jurisdiction that may be exercised in relation to that matter, the inherent power cannot be invoked in order to cut across the powers conferred by the Code or in a manner inconsistent with such provisions. In other words the court cannot make use of the special provisions of Section 151 of the Code, where the remedy or procedure is provided in the Code.
>
> (*d*) The inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the

[1] **(2011) 11 SCC 275**

purposes mentioned in Section 151 of the Code when the matter is not covered by any specific provision in the Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the legislature.

(*e*) While exercising the inherent power, the court will be doubly cautious, as there is no legislative guidance to deal with the procedural situation and the exercise of power depends upon the discretion and wisdom of the court, and in the facts and circumstances of the case. The absence of an express provision in the Code and the recognition and saving of the inherent power of a court, should not however be treated as a *carte blanche* to grant any relief.

(*f*) The power under Section 151 will have to be used with circumspection and care, only where it is absolutely necessary, when there is no provision in the Code governing the matter, when the bona fides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent abuse of process of court."

15. The Hon'ble Apex Court, in **Vadiraj Nagappa Vernekar (Dead) through L.Rs. v. Sharadchandra Prabhakar Gogate**[2], considered the scope of Order XVIII and Rule 17 of C.P.C. and held as under at para 17.

> "it is now well settled that the power to recall any witness under Order 18 Rule 17 CPC can be exercised by the Court either on its own motion or on an application filed by any of the parties to the suit, but as indicated hereinabove, such power is to be invoked not to fill up the lacunae in the evidence of the witness which, has already been recoded but to clear any

[2] AIR 2009 SC 1604

ambiguity that may have arisen during the course of his examination.

16. In the case at hand, as stated supra, defendants 3 and 4 did not assign any reasons to reopen the evidence. Moreover, the trial Court has recorded a finding that no subsequent development is disclosed from the written statement filed by defendants 3 and 4. Indeed, no additional issues were framed based upon the written statement filed by the revision petitioners/defendants 3 and 4.

17. The trial Court considered all these aspects and dismissed the applications by assigning proper reasons. This Court does not find any irregularity or illegality in the order impugned, warranting the interference of this Court.

18. Hence, these Civil Revision Petitions are dismissed. No costs.

19. Since the suit is of the year 2016, the learned trial court shall expedite the disposal of the suit as expeditiously as possible, preferably in six months from the date of receipt of the copy of the order.

As a sequel, all the pending miscellaneous applications shall stand closed.

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SUBBA REDDY SATTI, J

Date : 30.06.2026
IKN

Whether the order is :

Speaking Yes/No / Recorded Yes/No

Reportable Yes/No / Non-Reportable Yes/No