

**IN THE HIGH COURT OF JUDICATURE
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**WEDNESDAY THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE S.V. BHATT

**CIVIL REVISION PETITION NO. 1764 OF 2014
AND
CIVIL REVISION PETITION NO. 2215 OF 2014**

Between:

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B.Ramakrishna Reddy & Anr. ... Petitioners

V/s.

Dr.B. Gopal Reddy ... Respondent

Counsel for the Petitioners : Sri V.Hanmanth Rao

Counsel for the Respondent : Sri K.Mahipathi Rao

The court made the following : [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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COMMON ORDER :

The defendants in OS.No. 28 of 2009 in the court of Senior Civil Judge, Nagarkurnool are the Revision Petitioners. These Civil Revision Petitions are directed against the common order dated 21/04/2014.

2. The respondent filed OS.No. 28 of 2009 in the court of Senior Civil Judge, Nagarkurnool for the reliefs of declaration of title and perpetual injunction. The respondent ***inter alia*** averred in the plaint that he and his brother, Sri Parmeshwar Reddy are the undivided joint family members, though the revenue records are mutated separately but the lands are cultivated jointly under the supervision of plaintiff, as his brother Sri Parmeshwar Reddy resides abroad. On 24/9/2012 the suit was dismissed. The respondent filed AS.No. 104 of 2012 in the court of IX Additional District Judge, Wanaparthy. The learned counsel appearing for the parties admit that one of the findings of trial court is that the suit at the instance of first respondent for the comprehensive relief is not maintainable. The respondent filed I.A.No. 218 of 2014 under

Order-6, Rule-17 of CPC and I.A.No. 219 of 2014 under Rule 28 of Civil Rules of Practice. Through the order impugned, the learned District Judge allowed the applications for amending cause title and para No.2-A of the plaint and ordered Rule 28 petition filed under Civil Rules of Practice. Hence Revisions.

3. Sri V.Hanmanth Rao, learned counsel for the Revision Petitioner vehemently contends that the procedure adopted by the appellate court is illegal and the permission granted for amendment of cause title to array Sri Parmeshwar Reddy, as one of the appellants represented through GPA without taking permission of the court to prosecute the matter by an Agent is unsustainable and liable to be set aside.

4. The learned counsel while fairly accepting the position of law that one of the members of a Hindu Joint Family certainly is entitled to file a suit either for protection of family property or recovery of amounts etc., due to the family contends that one of the family members cannot file a suit for declaration of right of the other member. Therefore, he prays for setting aside the orders impugned in the Revisions.

5. Sri Suresh, learned counsel for the respondent submits

that an application is pending before the court for grant of permission to represent the proposed party by a Agent and the mistake is curable as already a petition is pending no exception can be taken to illegality pointed out in the revision. The learned counsel further contends that the amendment to the cause title firstly has not changed the frame of the suit, cause of action, much less material facts stated in the plaint.

6. On the contrary, it is the submission of learned counsel for the respondent that at the earliest point of time, the first respondent has already referred to the commonality of interest of himself and his brother vis-à-vis the plaint schedule property and in view of the findings recorded by the trial court, the same being put against the first respondent, the present applications are filed.

7. Perused the material available on record and considered the submissions of learned counsel appearing for the parties. It is not in dispute that an application to prosecute the *lis* by the Agent is pending before the learned appellate Judge. If the application is taken up and appropriate orders are passed, the objection now pointed out by the revision petitioners certainly vanishes and the same cannot be a ground for refusing the amendment. The first

respondent has been prosecuting the litigation for himself but also for the interest of his brother. The same is evident from the pleadings in the plaint. The defect now sought to be cured through the instant prayer is more in the nature of a procedural objection on which a finding is recorded against the first respondent by the trial court. The learned appellate Judge having considered the frame of suit, material available on record has given cogent findings for ordering the applications. I do not see any illegality to entertain these revisions.

8. Revisions are dismissed. No order as to costs.

9. As a sequel, Miscellaneous Petitions if any, pending in these civil revision petitions shall stand closed.

JUSTICE S.V. BHATT.

18/02/2015

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HONOURABLE SRI JUSTICE S.V. BHATT

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