

THE HON'BLE SRI JUSTICE S.V.BHATT

**C.R.P.Nos.4981, 5000, 5019, 5033, 5041, 5043, 5116,
5208, 5306 of 2017 & 705 of 2018**

ORDER:

Heard Mr.Venkateshwar Varanasi, Mr.M.R.S.Srinivas and Sivalenka Ramachandra Prasad for revision petitioners and Mr.Ajgal Ravibabu for respondents.

The plaintiffs in O.S.Nos.114 of 2008, 116 of 2008, 117 of 2008, 120 of 2008 and 127 of 2008 114 of 2008 are the revision petitioners. The revision petitioners have filed the suits for perpetual injunction restraining the defendants from interfering with the possession of plaintiffs of respective plaint schedule properties.

The parties are referred as plaintiffs and defendants.

The learned counsel appearing for the parties, keeping in view the similarity of prayers and circumstances in the Interlocutory Applications against which these civil revision petitions are filed have made submissions in the batch of civil revision petitions and have stated that reference to averments in one of the civil revision petitions would be sufficient for disposing of the entire batch.

The plaintiffs have filed two interlocutory applications one for impleadment of Nannaparaju Padmavathi as

defendant No.3 in the suit and another application for amendment of plaint under Order 6 Rule 17 of Code of Civil Procedure (CPC). The details of the interlocutory applications, suits and names of the parties are stated in the following tabular statement:

S.No.	Suit No.	Names of the plaintiffs	I.A.Nos.
1.	O.S.No.114 of 2008	Vangala Suguna Devi	I.A.No.43 of 2016 under Order 1, Rule 10 (2) of CPC and I.A.No.90 of 2017 under Order 6, Rule 17 of CPC
2.	O.S.No.116 of 2008	Chitrapu Prabhakar Rao	I.A.No.50 of 2016 under Order 1 Rule 10(2) of CPC and I.A.No.86 of 2017 under Order 6, Rule 17 of CPC
3.	O.S.No.117 of 2008	Kodi Venkata Subbs Rao	I.A.No.47 of 2016 under Order 1, Rule 10(2) of CPC and I.A.No.87 of 2017 under Order 6, Rule 17 of CPC
4.	O.S.No.120 of 2008	Tula Venkata Rama Rao	I.A.No.45 of 2016 under Order 1, Rule 10(2) of CPC and I.A.No.88 of 2017 under Order 6, Rule 17 of CPC
5.	O.S.No.127 of 2008	Cherukuri Vimala	I.A.No.174 of 2016 under Order 1, Rule 10(2) of CPC and I.A.No.89 of 2017 under Order 6, Rule 17 of CPC.

The revision petitioner in CRP.No.4981 of 2017 filed O.S.No.117 of 2008 for the relief of perpetual injunction restraining the defendants 1 and 2/respondents 1 and 2

herein from in any manner interfering with plaintiff's possession and enjoyment of plaint schedule property. The suit schedule reads thus:

"IN THE COURT OF THE HON'BLE JUNIOR CIVIL JUDGE AT
GODAVARIKHANI I/C.MANTHANI
O.S.No. _____ of 2008.

Between:-

Kodi Venkata Subba RaoPlaintiff

And

Gujjula Surender Reddy & another ...Defendants.

SUIT SCHEDULE

S.No.	Extent	Sy.No.	Dry/wet	situated at
1.	Sy.No.728/B admeasuring 0-05 gts.,			situated at Jangoan village of Jangoan of G.P. of Ramagundam mandal of Karimnagar.

BOUNDARIES

East	: G.Subramanyam's land.
West	: V.B.L.N.R.Naidu's land
North	: Ch.Prabhakar's land.
South	: Suguna Devi's land.

Dt:1/8/2008"

On 28.10.2010, the revision petitioner was examined as PW.1. On 11.07.2013, the vendor of the plaintiff and also the proposed 3rd defendant was examined as PW.2.

The plaintiff by taking note of the oral evidence of PW.2 and also the Advocate Commissioner's report, it is alleged, has been compelled to file I.A.Nos.47/2016 and 87 of 2017 for impleadment of PW.2 as D.3, amendment of plaint and the proposed amendment reads thus:

"After para No.7, the following paras may be added:-

(d) After para No.7 the para No. 7(b), 7(c), 7(d), 7(e), 7(f), 7(g) & 7(h) may be added as

It is submitted that, during the pendency of the suit while conducting the Advocate commissioner along with Dy

inspector Surveyor to identify the physical features/demarcation of the suit land in said cases. Thereon, the plaintiff along with other adjacent land owners got information that, said padmavathi have sold lands to the plaintiff and others by mentioning wrong Sy.Nos. as 728/B instead of 729”.

7(c) It is submitted that state that, immediately, on 03-02-2016 after knowing the above said information, plaintiff and other adjacent land owners went to office of Sub-Registrar at Peddapalli to verify the documents of Sale Deed with regard to the land in Survey numbers i.e.728/B and 729, which has been sold by said Padavathi to the plaintiff and other adjacent land owners. After, close observation, the plaintiff have got actual facts of the selling of land in Sy.No.728/B and 729. In fact, said padmavathi purchased the lands admesuign Ac.1.29 guntas in Sy.No.729 and land admeasuring Ac.1.13 guntas in Sy.No.728/B, situated at Jangom shivar of Ramagundam Mandal of karimnagar district vide Registered Document No.621/1976 from its owner by name Marella Mallaiah.

7(d) It is submitted that, after purchase of the above said land, said padmavathi sold away the land out of the above land admeasuring Ac.1.29 guntas in Sy.No.729 and land admeasuring Ac.1.13 guntas in Sy.No.728/B situated at Jangom shivar of Ramagundam Mandal of karimnagar district to following persons.

SL. No	Parties Name	Survey Number	Document No.	Extent of Land
1	Gudavati Subrahmanyam	728/B	2363/1983	Ac.0.20 guntas
2	Cherukuri Vimala	728/B	2448/1983	Ac.0.05 guntas
3	Kodi Venkata Subba Rao	728/B	2449/1983	Ac.0.05 guntas
4	Vejju Bhaskara Lami Narayana Rao Naidu	728/B	2450/1983	Ac.0.05 guntas
5	Vengali Suguna Devi	728/B	2451/1983	Ac.0.05 guntas

6	Chitrapu Prabhakar Rao	728/B	2452/1983	Ac.0.05 guntas
7	Mallampati Pushpavathi	728/B	2453/1983	Ac.0.05 guntas
8	Nalla Bakka Reddy	728/B	1452/1999	Ac.0.01 1/2 guntas
9	Poosala Shradha	728/B	593/2005	Ac.0.12 guntas
			Total Extent =	Ac.1.23 ½ guntas
10	Pattipaka Shankaraiah	729	1162/1990	333 Sq. Yards
11	Devarakonda Rajaiah	729	1163/1990	333 Sq. Yards
12	Nalla Sumathi	729	1164/1990	181.5 Sq. Yards
13	Ramidi Kavitha	729	1165/1990	181.5 Sq. Yards
14	Aleti Pratap Reddy	729	1166/1990	152 Sq. Yards
15	Malem Sadanandam	729	1167/1990	91 Sq. Yards
16	Boregum Ankulu	729	250/1991	181.5 Sq. Yards
17	Ekkati Vasumathi	729	251/1991	121 Sq. Yards
18	Ekkati Vasumathi	729	336/1991	91 Sq. Yards
19	Takkalapalli Devndar Rao	729	337/1991	91 Sq. Yards
20	Challa Bakki Reddy	729	338/1991	181 Sq. Yards
21	Salakonda Raji Reddy	729	339/1991	242 Sq. Yards
22	Challa Bakki Reddy	729	1443/1999	242 Sq. Yards
23	Aleti Pratap Reddy	729	1446/1999	152 Sq. Yards
24	Ramidi Kavitha	729	1448/1999	181.5 Sq. Yards
25	Boregum Ankulu	729	1449/1999	181.5 Sq. Yards
26	Ch. Venugopal Reddy	729	1054/1990	2672 Sq. Yards
27	Takkalapalli Devndar Rao	729	1442/1999	91 Sq. Yards
28	Tirupati Shankaraiah	729	2632/2006	484 Sq. Yards
29	Tadikonda Narasaiah	729	2631/2006	242 Sq. Yards
30	N. Raji Reddy	729	1444/1999	242 Sq. Yards
31	Pattipaka Shankaraiah	729	1445/1999	333 Sq. Yards
32	Ekkati Vasumati	729	1441/1999	91 Sq. Yards
33	Devarakonda Rajaiah	729	1451/1999	333 Sq. Yards
34	Morem Shankaraiah	729	1447/1999	91 Sq. Yards
35	Ekkati Vasumati	729	1450/1999	121 Sq. Yards
36	Gopati Kanka Raju	729	4483/2011	1210 Sq. Yards
			Total Extent =	Ac 1:33 Guntas

7(e) It is further submitted that, as per above table, said pamavathi have sold the land measuring Ac.1.23 ½ guntas or more in Sy.No.728/B, instead of land Ac.1.13 guntas in Sy.No.728/B and land Ac.1.33 sold instead of Ac.1.29 in sy 729 as such, it has been clearly shows said padmavathi have sold the excess land to the persons after selling of land in the year 1983 by playing fraud and cheating with created bogus and sham documents, in order to cause irreparable injury to the purchasers i.e. plaintiff and others.

7(F) It is submitted that, apart from above said sale, said padmavathi have rectified the following lands in Sy.No.729 to 728/B as Padmavathi admitted that, sold land in Sy.No.728/B and 729 by showing wrong survey numbers.

SL. No.	Parties Name	Survey Number	Document No.	Extent of Land
1	Ekkati Vasumathi	728/B	1441/1999	91 Sq. Yards
2	Takkalapalli Devndar Rao	728/B	1442/1999	91 Sq. Yards
3	Nalla Sumathi	728/B	1443/1999	181.5 Sq. Yards
4	Nalkonda Raji Reddy	728/B	1444/1999	242 Sq. Yards
5	Pattipaka Shankaraiah	728/B	1445/1999	333 Sq. Yards
6	Aleti Pratap Reddy	728/B	1446/1999	152 Sq. Yards
7	Modem Sadanandam	728/B	1447/1999	91 Sq. Yards
8	Ramidi Kavitha	728/B	1448/1999	181.5 Sq. Yards
9	Boregum Ankulu	728/B	1449/1999	181.5 Sq. Yards
10	Ekkati Vasumathi	728/B	1450/1999	121 Sq. Yards
11	Devarakonda Rajaiah	728/B	1451/1999	333 Sq. Yards
12	Nalla Bakka Reddy	728/B	1452/1999	181.5 Sq. Yards
			Total Extent =	Ac 0:18 Guntas

7(g) It is submitted that due to padmavathi (Defendant No.3) execution of earlier sale deeds with regard to the land in Sy.No.728/B and 729 and again padmavathi been made to understand to the plaintiff that, padmavathi (Defendant No.3)

have wrongly mentioned survey numbers in the plaintiff's sale deed as well as others at the time of execution of sale deeds in the year-1983 in order to cause heavy monetary loss to the plaintiff and others with intentionality. Even today padmavathi has about 15 guntas of land in Sy.No.729 (729/1/1) as per pahanies.

7(h) It is submitted that, without any cause and reason after rectified the above said sale deeds and padmavathi (Defendant No.3) have created false and fictitious land in Sy.No.729 and 728/B, by creating bogus and false documents, the same land i.e. Ac.0.20 guntas given to one Gujjula Surender Reddy (Defendant No.1) under General Power of Attorney cum Sale vide document No.722/2005, dated 22-02-2005 and some of the land to other persons with the collusion of Defendant No.1, as such, padmavathi (Defendant No.3) was intentionally breached the terms conditions of sale deed bearing No.2449/1983, dated 09-12-1983, so that, padmavathi (Defendant No.3) do here by entitled to correct the survey numbers in the plaintiff's sale deed as above said.

8. It is submitted that, after completion of para No.8, may be added the relief for declaration of title and consequential relief, cause of action on 23/7/2015, while conducting enquiry the Advocate commissioner along with Dy.inspector of Survey Peddapalli and on 03.02.2016 after knowing the above said information, plaintiff and other adjacent land owners went to office of Sub-Registrar at Peddapalli to verify the documents of Sale Deed with regard to the land in Survey numbers i.e. 728/B and 729 and got information the defendant No.3 has sold excess land to the same other persons by creating false and bogus documents with the collusion of Defendant No.1 and 2.

9. I state that, after completion of para No.11, may be added the following contents as,

“the suit is being filed for declaration of title, the relief for declaration title of the suit schedule property and the market value of the suit schedule property is Rs.15,12,500/- whereon the purpose of court fee is $\frac{1}{2}$ on the market value of the suit schedule property is estimated Rs.7,56,250/- on which court fee is payable Rs.10,000/- is paid under Section 24(B) of APC & SV Act and relief for directing the defendant No.1 to correct the Sy.No.728/B to 729 by way of rectification in Sale deed bearing No.2449/1983 is consequential relief to the main relief, and relief for declaration that GPA and cancel the same, where on court fee is not payable.

10. I state that, in the prayer portion after relief (A), the following relief may be added as

“(a) To pass a decree for declaration of title in favour of the plaintiff over the suit schedule property and subsequently directing the defendant No.3 to correct the Sy.No.728/B to 729 over the suit schedule property in registered sale deed bearing No.2450/1983, and 536/1985, may be granted.

(b) To pass a decree that, declaring the document i.e. General Power of Attorney cum Sale vide document No.722/2005, dated 22-02-2005, is null and void and not binding on the plaintiff consequently cancel the said GPA No.722/2005 dated on the file of Peddapalli Sub-register office at Peddapalli, may be granted.”

Defendant Nos.1 and 2 resisted these two interlocutory applications and the learned trial judge through the order impugned in the CRP dismissed both the applications. Hence, the Civil Revision Petition.

Learned counsel appearing for the plaintiffs contend that the trial court committed illegality in rejecting the prayers for impleading the vendor as defendant No.3 and

also for amendment of a few paragraphs in the plaint. Inclusion of additional prayer such as declaration of title, correction to sale deed etc., are ancillary and have become necessary in the fact situation of the case. According to plaintiffs, the proposed amendment cannot and could not be treated as changing the cause of action or frame of the suit inasmuch as the proposed amendment replaces Sy.No.728/B with Sy.No.729 in plaint schedule. It is further contended that the plaintiffs and defendant Nos.1 & 2 purchased from common vendor, the plaintiffs are purchasers in earlier point of time, the boundaries are definite and the description given in the plaint satisfies the requirement of Order 7, Rule 3 of CPC. Therefore, allowing the application either for amendment of survey number or for impleadment of common vendor as D.3 firstly avoids multiplicity of proceedings and secondly gives quietus to the dispute between parties vis-à-vis the vacant land available. The counsel in support of their prayer for amendment and impleadment relied on the following decisions.

Abdul Rehman And Another versus Mohd.Ruldu And Others¹, Gurbaksh Singh and others v. Buta Singh and another², M.Kamalamma and another v. B.Doraswamy Reddy and others³, Dhulipalla Srinivasa Rao v. Kandula Govardhana Rao and another⁴ and Raghu Thilak D.John v. S.Rayappan and others⁵.

Learned counsel for defendants 1 and 2 by relying on the following dates with force opposes consideration of these two prayers as completely inequities.

On 11.09.2009, the written statement of defendants 1 and 2 was filed. On 26.02.2010, the chief affidavit evidence of plaintiff as PW.1 was filed and cross examination was completed about that time. On 11.07.2013, PW.2- Nannaparaju Padmavathi was cross examined and thereafter I.A.No.348 of 2014 was filed for appointment of Advocate Commissioner. The report of Advocate Commissioner *prima facie* shows the available vacant land as forming part of Sy.No.729. The plaintiffs have taken nearly two years thereafter to file these two interlocutory applications, one for impleadment and another for

¹ (2012) 11 SCC 341

² 2018 (3) ALD 186 (SC)

³ 2017 (5) ALT 136

⁴ 2018 (2) ALD 315

⁵ AIR 2001 SC 699

amendment. The evidence in the suit is substantially completed. Therefore, in the fact and circumstances of this case, both the prayers are rightly rejected. Secondly, it is contended that Rule 3, Order 7 while dealing with necessity of disclosing the details of immovable property refers to description of property is sufficient if identification can be either with boundaries or survey numbers. In the case on hand, the plaintiffs have come to Court both with survey numbers and also the boundaries. The boundaries are sufficient to prove by evidence, the property claimed through respective sale deeds and therefore the proposed amendment is firstly not necessary, secondly, it changes the frame of the suit and substantially changes the prayers from a suit filed one for injunction simplicitor into a suit for declaration of title, correction of sale deed, correction of schedule in the sale deed and perpetual injunction etc. It is contended at this stage, if the prayers are considered, the same would be against the requirement of proviso to Order 6, Rule 17 of CPC. The counsel relied on decisions reported in ***Salem Advocate Bar Association, T.N. Versus Union of India***⁶, ***Vidyabai And Others versus Padmalatha And***

⁶ (2005) 6 SCC 344

Another⁷ and ***Zarif Ahmad (Dead) through legal representatives And Another versus Mohd. Farooq***⁸ and prayed for dismissing the CRP.

To sum up, the plaintiff prays for impleadment of D3 as party and amendment of plaint as noted above.

The plaintiff through the proposed amendment or by impleading common vendor seeks for resolution of all the disputes vis-à-vis subject vacant land now identified by Advocate-Commissioner. The affidavit filed in support of respective applications bear details on why the necessity to file these two applications has arisen. The necessity is different from satisfying the requirement of proviso to Rule 17, Order 6 of CPC. Testing the interlocutory prayers from the mode and manner of proof in a suit for perpetual injunction and the proof required in a suit for declaration of title, correction to the registered document deed, this Court is of the view that after the trial is at the advanced stage, these two applications ought not to be entertained. The counsel for the plaintiffs tried to convince this Court that the plaintiffs are seeking additional relief viz., declaration of title and it does not change the cause of action, this Court is not persuaded by this argument. Reasons for not

⁷ (2009) 2 SCC 409

⁸ (2015) 13 SCC 673

agreeing with the contentions of the learned counsel for plaintiffs can be recorded, if recorded, the same may come in the way of plaintiffs taking advantage of Rule 3 of Order 7 and continue to prosecute the suit already filed within the four corners of law. This Court since is in complete agreement with the reasons recorded by the trial Court for rejecting these two prayers and also after taking note of ratio laid down by the Apex Court under proviso to Rule 17 of Order 6 of CPC is convinced that no ground is made out for interfering with the orders in the civil revision petitions.

Hence, the Civil Revision Petitions fail and accordingly dismissed. No order as to costs.

The learned Principal Junior Civil Judge considers disposing of the suits within three months from the date of receipt of copy of this order.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 04.09.2018
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