

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION NO: 3725 OF 2024

Petition under Article 227 of the Constitution of India aggrieved by the order dated 18-09-2024 made in I.A No.88 of 2021 in O.S.No.146 of 2020 on the file of VI Additional District and Sessions Judge, Rangareddy District, At Kukatpally.

Between:

1. Sri.T.Harishchandra Prasad, S/o. late Sri.T.Nageshwara Rao, Aged about 69 years, Occ. Business, R/o. Flat No.104, B-Block, Green Grace Apartments, Khajaguda, Hyderabad-8, T.S.
2. Smt.Bhavya Kondapaneni, W/o.Sri.Sushanth Kondapaneni, Aged about 39 Years, Occ. Housewife, R/o. 360, South Market Street, Unit 901, San Jose, California, USA, rep. by her GPA Holder vide document No.30 of 2017, Book VI, dated 17-01-2017, Sri.T.Harishchandra Prasad, S/o. late Sri.T.Nageshwara Rao, Aged about 65 years, Occ. Business, office at Western Constructions, 8D, 8th floor, Western Pearl, Sy.No.13, Kondapur, Hyderabad-500084, TS.

...PETITIONERS/PETITIONERS/DEFENDANTS No. 1 & 2

AND

1. Sri.Santosh Kumar Singh, S/o. Sri.R.K.Singh, Aged about 55 years, Occ. Business, and Executive Director, M/s.YKH Builders Pvt.Ltd., R/o. Flat No.A-306, Express apartments, H.No.11-4-651, Lakdikapool, Hyderabad-500004, TS.

...RESPONDENT/RESPONDENT/PLAINTIFF

2. M/s. Griptonite Games India Pvt. Ltd., rep.by Its Managing Director, Mr.Imaran Khan Kaki, having its office at 3rd floor, Western Pearl, Sy.No.13, Kondapur Village, Serilingampally Mandal, R.R.District, TS.

(Not necessary party)

...RESPONDENTS/DEFENDANT No. 3

IA NO: 1 OF 2024

Petition under Rule 32 CPC R/w 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 permit the petitioner No.1 to present and prosecute the present CRP on behalf of 2nd petitioner/defendant No.2 on her name in pursuance of registered power of attorney dt.06-01-2017 vide document No.30/BKIV/2017 registered before SRO, Rangareddy (RO) in his favour in the interest of justice.

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 stay of all further proceedings in O.S.No.146 of 2020 on the file of learned VI Addl. District and Sessions Judge, Rangareddy District, At Kukatpally pending disposal of the present CRP in the interest of justice.

Counsel for the Petitioners: Sri Madiraju Prabhakar Rao

**Counsel for the Respondent No. 1: Sri K. Sai Rama Murthy, representing
M/s. Ayyagari Jayashree**

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

C.R.P.No.3725 OF 2024

ORDER:

Heard Mr. Madiraju Prabhakar Rao, learned counsel for the petitioners and Mr.K.Sai Rama Murthy, learned counsel representing Ms. Ayyagari Jayashree, learned counsel for respondent No.1. Perused the record.

2. The present is a civil revision petition which has been filed under Article 227 of the Constitution of India assailing the order dated 18.09.2024 passed by the learned VI-Additional District and Sessions Judge, Ranga Reddy District, at Kukatpally in I.A.No.88 of 2021 in O.S.No.146 of 2020.

3. Vide the impugned order, the learned trial Court has rejected the petition filed by the petitioners/defendant Nos.1 and 2 under Order VII Rule 11 CPC seeking rejection of plaint. The objection raised under Order VII Rule 11 CPC was that the suit itself not being maintainable as there appears to be *prima facie* misuse of the process of law and also the suit not being tenable for the relief that has been sought for.

4. The contention of the learned counsel for the petitioners was that the petitioner/defendant No.1 had, in fact, in the course of

execution of the sale deed under challenge in the suit has acted in the capacity of Managing Director of the company. All his decisions were for and on behalf of the company. Therefore, it is the company's decision which is under challenge before the trial Court. However, the company as such i.e., M/s YKH Builders Private Limited has not been made a party nor is the company's action under challenge. Rather it is the suit that has been filed assailing the action on the company projecting it to be the decision of defendant No.1 alone. He further contends that undisputedly petitioner No.1 had around 60% of share in the company and was also the Managing Director. That all the decisions that have been taken were for and on behalf of the company and, therefore, the decision of the company cannot be questioned by a shareholder by filing a suit. In the petition under Order VII Rule 11 CPC it was also the objection that the suit was filed beyond the period of three years from the date the impugned sale deed was executed i.e., 06.04.2017.

5. Perusal of the record would show that though petitioner No.1 seems to have represented the company M/s YKH Builders Private Limited, but it appears that he has got the sale deed under

challenge executed in his name and in the name of his daughter. The other shareholders in the company, particularly the plaintiff, who claims himself to have 40% of the share in the company, was not taken into confidence nor was he granted any share in the sale consideration.

6. Moreover, apart from the fact that the petitioner/defendant No.1 selling the company's property in his name and in the name of his daughter, he also acts as a General Power of Attorney for his daughter in executing of the sale deed. All these contentions have been duly considered by the trial Court, when it reached to the conclusion that these objections are rather one which needs to be considered during trial by leading evidence, and it cannot be decided at the threshold only on the petition under Order VII Rule 11 CPC.

7. Given the finding given by the trial Court while passing the impugned order dated 18.09.2024, this Court is of the considered view that there does not appear to be perversity or jurisdictional error on the part of the trial Court in the course of passing of the impugned order, nor can it be said to be in excess of its jurisdiction. Moreover, the objections that the petitioners have

raised can only be decided after the same are framed as issues and the parties are permitted to lead evidence in respect of the two objections. Petitioner No.1 having represented the company and the decision of selling the property of the company in the name of the petitioners whether it is that of the company, are all matters of evidence and which could not have been considered and decided while hearing the petition under Order VII Rule 11 CPC. Similarly, the issue of suit being barred by limitation is also a mixed question of law and fact for which again evidence has to be led by the parties to establish the date on which the cause of action arose to determine the issue of limitation as well. The finding of the trial Court on this objection also seems to be proper, legal and justified, and does not warrant interference of this Court.

8. The civil revision petition is, accordingly, rejected. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

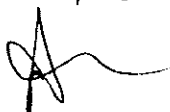
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Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The VI Additional District and Sessions Judge, Rangareddy District, At Kukatpally.
2. One CC to Sri Madiraju Prabhakar Rao, Advocate [OPUC]
3. One CC to M/s. Ayyagari Jayashree, Advocate [OPUC]
4. Two CD Copies

VH/gh

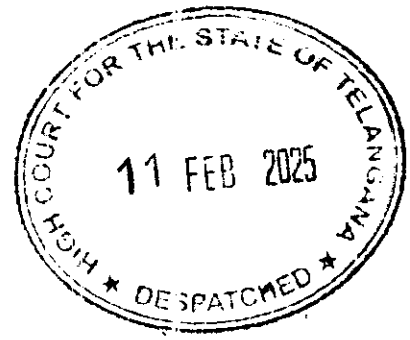


HIGH COURT

DATED: 06/12/2024

ORDER

CRP.No.3725 of 2024



REJECTING THE CRP

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REMA
06/2/2025