IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY THE TWENTY FIRST DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2346 OF 2024

Petition under Article 227 of the Constitution of India, Civil Revision Petition aggrieved by the order dt 27.03.2024 in I.A.No.614 of 2023 in O.S.No.04 of 2015 in the court of the Judge, Family Court-Cum-III Additional District and Sessions Judge, Srikakulam.

Between:

1. Kolla Pardhasaradhi, S/o Late Appala Raju, Aged about 51 years, Hindu, Business, Residing at Kakarla Street, Door No. 14-204/1, Rajam Town and Post, Rajam Mandal, Srikakulam District. C/o Venkateswara Nilayam at Kakarla Street in Rajam Town and Mandal.
2. Kolia Sravan Kumar, S/o Pardha Saradhi, Aged about 25 years, Hindu, Chartered Accountant, Residing at Hyderabad, permanent resident of Kakarla Street, Rajam Town and Post, Rajam Mandal, Srikakulam District.
3. Kolia Abhinav, S/o Pardha Saradhi, Aged about 24 years, Hindu, B.Tech., Un-employee, resident of Kakarla Street, Rajam Town and Post, Rajam Mandal, Srikakulam District.

...**Petitioners/Petitioners/Plaintiffs**

AND

1. Satyavarapu Trinadha Murthy, S/o Late Suryanarayana Murthy, Aged about 60 years, Hindu, gold business. Residing at Chowk Bazar Road, Near Kanyaka Parameswari Temple, Srikakulam Town, Srikakulam Mandal and District. C/o S.S.N.M. Jewellery Shop, Situated at chowk Bazar in Srikakulam Town and District.

2. Kolla Sarojini, W/o Late Appalaraju, Aged about 75 years, Hindu, Household duties. Residing at Vasavi Nilayam, Door No. 3-144, Saradhi Road, Raj am Town and Post, Rajam Mandal, Srikakulam District.

3. Kolla Gopala Krishna, S/o Late Appalaraju, Aged about 42 years, Hindu, Business, Resident of Door No.3-144, Saradhi Road in Rajam Town and Post, Rajam Mandal, Srikakulam District.

4. Potta Laxmikantham, W/o Late Sanyasi Raju, Aged about 66 years, Hindu, Household duties. Resident of Kaspa Street in Rajam Town and Post, Rajam Mandal in Srikakulam District. C/o Bandi Venkata Sreeramulu. Kaspa Street, Rajam, Srikakulam District.

5. Chenna Rajesh, S/o Ramakrishna Saroja Rao, Aged about 38 years, Hindu, Business, Residing below siri Guest House Lodge, Opposite to Railway Parcel Office, Rajahmundry, East Godavari District.

...Respondents/Respondents/Defendants

IA NO: 1 OF 2024

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of suit in O.S.No. 04 of 2015 in the court of the Judge, Family Court-Cum-III Additional District & Sessions Judge, Srikakulam pending the disposal of Civil Revision Petition

Counsel for the Petitioners: SMT. T.V. SRI DEVI

Counsel for the Respondents:

The Court made the following:

APHC010435792024

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

[3331]

TUESDAY,THE TWENTY FIRST DAY OF JANUARY TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2346/2024

Between:

1. KOLLA PARDHASARADHI, S/O LATE APPALA RAJU, AGED ABOUT 51 YEARS, HINDU, BUSINESS, RESIDING AT KAKARLA STREET, DOOR NO. 14-204/1, RAJAM TOWN AND POST, RAJAM MANDAL, SRIKAKULAM DISTRICT. C/O VENKATESWARA NILAYAM AT KAKARLA STREET IN RAJAM TOWN AND MANDAL.

2. KOLIA SRAVAN KUMAR,, S/O PARDHA SARADHI, AGED ABOUT 25 YEARS, HINDU, CHARTERED ACCOUNTANT, RESIDING AT HYDERABAD, PERMANENT RESIDENT OF KAKARLA STREET, RAJAM TOWN AND POST, RAJAM MANDAL, SRIKAKULAM DISTRICT.

3. KOLIA ABHINAV,, S/O PARDHA SARADHI, AGED ABOUT 24 YEARS, HINDU, B.TECH., UN-EMPLOYEE, RESIDENT OF K AKARLA STREET, RAJAM TOWN AND POST, RAJAM MANDAL, SRIKAKULAM DISTRICT.

...PETITIONER(S)

AND

1. SATYAVARAPU TRINADHA MURTHY, S/O LATE SURYANARAYANA MURTHY, AGED ABOUT 60 YEARS, HINDU, GOLD BUSINESS. RESIDING AT CHOWK BAZAR ROAD, NEAR KANYAKA PARAMESWARI TEMPLE, SRIKAKULAM TOWN, SRIKAKULAM MANDAL AND DISTRICT. C/O S.S.N.M. JEWELLERY SHOP, SITUATED AT CHOWK BAZAR IN SRIKAKULAM TOWN AND DISTRICT.

2. KOLLA SAROJINI, W/O LATE APPALARAJU, AGED ABOUT 75 YEARS, HINDU, HOUSEHOLD DUTIES. RESIDING AT VASAVI NILAYAM, DOOR NO. 3-144, SARADHI ROAD, RAJ AM TOWN AND POST, RAJ AM MANDAL, SRIKAKULAM DISTRICT.

3. KOLLA GOPALA KRISHNA, , S/O LATE APPALARAJU, AGED ABOUT 42 YEARS, HINDU, BUSINESS, RESIDENT OF DOOR NO.3-144, SARADHI ROAD IN RAJAM TOWN AND POST, RAJAM MANDAL, SRIKAKULAM DISTRICT.

4. POTTA LAXMIKANTHAM, W/O LATE SANYASI RAJU, AGED ABOUT 66 YEARS, HINDU, HOUSEHOLD DUTIES. RESIDENT OF KASPA STREET IN RAJAM TOWN AND POST, RAJAM MANDAL IN SRIKAKULAM DISTRICT. C/O BANDI VENKATA SREERAMULU, KASPA STREET, RAJAM, SRIKAKULAM DISTRICT.

5. CHENNA RAJESH, S/O RAMAKRISHNA SAROJA RAO, AGED ABOUT 38 YEARS, HINDU, BUSINESS, RESIDING BELOW SIRI GUEST HOUSE LODGE, OPPOSITE TO RAILWAY PARCEL OFFICE, RAJAHMUNDRY, EAST GODAVARI 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 topleased to set aside the order dt 27.03.2024 in I.A.No. 614 of 2023 in O.S.No. 04 of 2015 in the court of the Judge, Family Court-Cum-III Additional District and Sessions Judge, Srikakulam and pass

IA NO: 1 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 Pleased to grant stay of suit in O.S.No. 04 of 2015 in the court of the Judge, Family Court-Cum-III Additional District & Sessions Judge, Srikakulam pending the disposal of Civil Revision Petition and pass

Counsel for the Petitioner(S):

1. T V SRI DEVI

Counsel for the Respondent(S):

1.

The Court made the following:

ORDER

The plaintiffs in the suit filed the above revision against the order dated 27.03.2024 in I.A.No.614 of 2023 in O.S.No.4 of 2015 on the file of learned Judge, Family Court –Cum- III Additional District and Sessions Judge, Srikakulam.

2. The plaintiffs initially filed O.S.No.4 of 2015 against defendants 1 to 5, i.e., the respondents herein, seeking partition of the plaint schedule properties. Pending trial, the plaintiffs filed I.A.No.591 of 2023 under Order I Rule 10 read of the Code of Civil Procedure, 1908 (for short 'C.P.C.') read with Rule 28 of the Civil Rules of Practice (for short 'Cr.P.C.') to implead Bandi Venkata Sreeramulu and Kolla Shirisha as defendants 6 and 7 and for consequential amendments. The said I.A. was allowed on 20.03.2024.

3. Subsequently, the plaintiffs filed I.A.No.614 of 2023 under Order VI Rule 17 of CPC read with Section 28 of Cr.P.C. seeking amendment of the plaint by incorporating paragraph 'e' in paragraph III, after the sub-paragraph "f", in the plaint. By way of the proposed amendment, the plaintiffs pleaded for the insertion of the following:

> 'the registered sale deed dated 22.04.2006 said to have been executed by the plaintiff and defendants 2 and 3 in favour of defendant No.1 in respect of item No.4 of the suit schedule property; registered settlement deed dated 17.05.2007 said to have been executed by defendant No.1 in favour of Kolla Shirisha in respect of item No.4 of the suit schedule property; registered General Power of Attorney –cum- sale agreement dated 07.04.2010 executed by plaintiff No.1 in favour of defendant No.4 in respect of item No.1 of the suit schedule property; registered sale deed dated 11.08.2011

said to have been executed by defendants 2 and 3 along with two minor sons of defendant No.3 in favour of Bandi Venkata Sreeramulu in respect of item No.1 of the suit schedule; registered settlement deed dated 07.07.2007 said to have been executed by defendant No.2 in favour of defendant No.3 in respect of items 1 to 3 of the suit schedule; registered sale deed dated 08.10.2012 said to have been executed by defendants 2 and 3 in favour of defendant No.5 in respect of item No.7 of the suit schedule, are not binding all the plaintiffs and the registered sale deed dated 04.05.2006 executed by plaintiff No.1 and defendants 2 and 3 in favour of defendant No.5 in respect of item No.5 of the suit schedule is not binding on plaintiffs 2 and 3 and to order for consequential amendment of the plaint'.

4. In the affidavit, filed in support of the petition in I.A.No.614 of 2023, it was contended that the counsel, engaged earlier, died and after engaging another counsel, it was noticed that pleading was made regarding nominal and collusive documents. However, the words 'not binding' are not specifically pleaded in the plaint. Hence, the amendment petition.

5. Respondents 2 and 3/defendants 2 and 3 filed counter and opposed the application.

6. The trial Court, by order dated 27.03.2024 dismissed the application. Aggrieved by the same, the above revision is filed.

7. In the revision, notice was ordered and service was affected on respondent No.5, despite which, there is no representation on his behalf.

8. Heard Smt. T.V. Sridevi, learned counsel for the petitioners.

9. Learned counsel for the petitioners would submit that the suit was filed by the petitioners/plaintiffs seeking partition of the plaint schedule properties.

In the plaint, it was pleaded that the registered sale deed dated 22.04.2006 under which item No.4 of the suit schedule is sold, is nominal; that the registered settlement deed dated 17.05.2007, was executed clandestinely; that the sale transaction by plaintiff No.1 and defendants 2 and 3 in favour of defendant No.5 is not valid and binding on the plaintiffs 2 and 3 to the extent of their undivided share; that the agreement of sale –cum – GPA, is not legally valid and does not bind plaintiffs 2 and 3.

10. Learned counsel for the petitioner would further submit that the entire evidence was let in and no further evidence is required to be let in by the plaintiffs, even if the amendment is allowed and the nature of the suit does not change. However, the trial Court failed to exercise jurisdiction vested with it.

11. The point for consideration is:

> Whether the order dated 27.03.2024 in I.A.No.614 of 2023 in O.S.No.4 of 2015 on the file of learned Judge, Family Court –Cum- III Additional District and Sessions Judge, Srikakulam, suffers from illegality?

12. As seen from the copy of the plaint filed along with this civil revision petition, plaintiffs initially filed the suit against defendants 1 to 5/respondents herein seeking partition of the suit schedule properties, with a specific pleading that the documents are nominal and do not bind plaintiffs 2 and 3 in respect of their undivided share. I.A.No.591 of 2023 was filed by the petitioners/plaintiffs to implead proposed parties as defendants 6 and 7. The same was allowed by order dated 20.03.2024 and defendants 6 and 7 were impleaded.

13. By the present amendment, petitioners/plaintiffs want to include that the documents executed in favour of defendants 6 and 7 and the other documents already pleaded do not bind the plaintiffs. Of course, as rightly pointed out by the trial Court, the suit is at the stage of arguments. However, in the

considered opinion of this Court, the Trial Court missed a crucial aspect, whether the amendment proposed changes the nature of the suit or cause of action. It is also pertinent to mention here that except for adding a paragraph, the plaintiffs are not even intending to adduce further evidence. An averment was made to the effect in the affidavit filed in support of the stay petition and learned counsel for the petitioner at bar contended that the same was canvassed in the Trial Court also.

14. Thus, by the amendment, the petitioners/plaintiffs are pleading that the documents do not bind the plaintiffs. By the proposed amendment the nature of the suit will not be changed. The entire evidence was already let in and the averment in the affidavit filed in support of the stay petition that no further evidence will be let in by the petitioner/plaintiffs is taken note of.

15. One of the objects in permitting the amendments is to avoid multifarious litigation and uncalled multiplicity of litigations. In fact, in the original plaint, it was pleaded that the documents are nominal. In the facts and circumstances of the case, since neither the cause of action nor the nature of the suit is changed, to avoid multiplicity of proceedings and also to avoid multifarious litigation, the revision deserves to be allowed by imposing costs.

16. Given the above discussion, this Civil Revision Petition stands allowed. The order dated 27.03.2024 passed in I.A.No.614 of 2023 in O.S.No.4 of 2015 on the file of learned Judge, Family Court –cum- III Additional District and Sessions Judge, Srikakulam, is set aside, subject to the plaintiffs paying costs of Rs.5,000/- to defendants 2 and 3 within two weeks from today. In case defendants 2 and 3 decline to accept the amount, the amount shall be deposited before the District Legal Services Authority, Srikakulam within the time stipulated and file a memo before the trial Court.

17. The plaintiffs shall file the amended copy of the plaint within fourteen days from today, as mandated under Order VI Rule 18 of CPC. Since the entire evidence is already on record, the learned counsels appearing for the parties, in the trial Court, shall advance their arguments without seeking any further adjournments.

18. Since the evidence is completed and the suit is coming up for arguments, the learned trial Court shall dispose of the suit as expeditiously as possible, keeping in view that the suit is of the year, 2015. If the parties to the suit drag on the suit without advancing the arguments, it is wide open to the Trial Court to impose appropriate conditions for expeditious disposal of the suit, as per law.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

Sd/- K KASIRAO ACHARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Judge, Family Court-Cum-III Additional District and Sessions Judge, Srikakulam
2. One CC to Smt. T V Sri Devi, Advocate [OPUC]
3. Three CD Copies

MKP
sree

HIGH COURT

DATED :21/01/2025

ORDER

CRP.No.2346 of 2024



ALLOWING THE C.R.P.