HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

MAIN CASE No: Tr.C.M.P.No.80 of 2026

PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFICE NOTE
	07.10.2026	**PKC, J** **I.A.Nos.2, 3 & 4 of 2026** It is brought to the notice of this Court that the petitioners have moved applications before the Registry to implead the legal representatives of deceased respondent No.1. This itself shows that respondent No.1 has died. However, the petitioners have attempted to bring the legal representatives on record in the present petitions. This Court is of the view that, unless all the parties to the suits or proceedings are properly on record before the trial Court, the Court cannot consider that the parties to the suit under Section 24 of the Code of Civil Procedure, 1908. The forum to which the suits have to be transferred, if the suits are transferred without the parties to the suit, the proposed parties have no opportunity to answer the *lis*. More so, the Court under Section 24 CPC decides the proper and necessary parties, without proper facts is not within the purview of provision. In the case of **Kushro S. Gandhi and others v. N.A. Gajdar and others**[2],	

[2] AIR 1970 SC 1468

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		the Hon'ble Apex Court held that Section 24 of CPC *inter-alia* provides that High Court may withdraw any Suit, Appeal or other proceeding, pending in any Court, subordinate to it and try and dispose of the same. The High Court has tried an issue arising in a suit in a revision. It seems to this Court that the High Court, even if the parties conceded, had no power to decide the issue. The trial Court is competent to decide the parties to the suit. On such determination of parties, the authority of the Court under Section 24 CPC would arise. In the present case, there is no assertion that the petitioner has taken steps to add the LRs of deceased respondent No.1, or intimation is placed before the trial Court. The process has to be completed before the trial Court. While transferring, the proceedings may be transferred, but in my view first the presence of the parties shall be completed before the trial Court. Then the parties as contemplated under Section 24 of the Code would arise. Without completion of the array of parties in the proceedings before the trial Court, permitting withdrawal of the suits, especially when one of the parties is no more, would not satisfy the requirement under Section 24(1) of the Code. One of the parties before the trial Court is no longer available. Therefore, the said	

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		applications cannot be considered and are hereby rejected. It is made clear that these observations are made only for the purpose of the present applications. The petitioners are at liberty to take appropriate steps before the trial Court to bring the legal representatives of deceased respondent No.1 on record, if so advised. Accordingly, I.A.Nos.2, 3 & 4 of 2026 are dismissed. **PKC, J** **Tr.C.M.P.No.80 of 2026** Transfer Civil Miscellaneous Petition is dismissed (vide separate order) **PKC, J** DSV	