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APHC010220572026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3330]**
(Special Original Jurisdiction)

FRIDAY, THE 25th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

CIVIL REVISION PETITION No. 1233 and 2422 OF 2026

C.R.P. No.1233 of 2026

BETWEEN:

1. CHAPALAMADUGU VENKATA SUBBAMMA, W/o. DORASWAMY, AGED ABOUT 38 YEARS, OCC: CULTIVATION, R/O. P KAMMAPALLI VILLAGE, PEDDA ORAMPADU POST, OBULAVARIPALLI MANDAL TIRUPATI DISTRICT, ERSTWHILE ANNAMAYYA DISTRICT.

2. KONEDELA VENKATASWAMY, S/o. RAMAIAH, AGED ABOUT 62 YEARS, OCC: CULTIVATION, R/o. P KAMMAPALLI VILLAGE, PEDDA ORAMPADU POST, OBULAVARIPALLI MANDAL, ANNAMAYYA DISTRICT.

...PETITIONER(S)

AND

1. CHAPALAMADUGU RAMANAIAH, , S/o Ayyanna, Aged about 65 years, Occ Cultivation, R/o. P Kammapalli Village, Pedda Orampadu Post, Obulavaripalli Mandal, Annamayya District

...RESPONDENT

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 to urged at the time of hearing it is humbly prayed that this Honble Court may be pleased to set aside the Impugned common order dated.22.01.2026 passed in I.A.No.623 of 2025 in O.S.No.70 of 2018 on the file of the Court of the Civil Judge, (Junior Division), Railway Kodur in allowing the I.A. filed by the Respondent No. 1/Plaintiff herein under Order VI Rule 17 R/w. Section 28 of Civil Rules of Practice and pass such other order or orders.

C.R.P. No. 2422/2026

BETWEEN:

1. CHAPALAMADUGU VENKATA SUBBAMMA, W/o. DORASWAMY, AGED ABOUT 38 YEARS, OCC: CULTIVATION, R/o. P KAMMAPALLI VILLAGE,PEDDA ORAMPADU POST, OBULAVARIPALLI MANDAL TIRUPATI DISTRICT, ERSTWHILE ANNAMAYYA DISTRICT.
2. KONEDELA VENKATASWAMY, S/o.RAMAIAH,AGED ABOUT 62 YEARS, OCC CULTIVATION,R/o. P KAMMAPALLI VILLAGE, PEDDA ORAMPADU POST, OBULAVARIPALLI MANDAL, ANNAMAYYA DISTRICT. **...PETITIONER(S)**

AND

1. CHAPALAMADUGU RAMAIAH, S/O AYYANNA,AGED ABOUT 66 YEARS, OCC CULTIVATION,R/O. P KAMMAPALLI VILLAGE, PEDDA ORAMPADU POST,OBULAVARIPALLI MANDAL, ANNAMAYYA DISTRICT.
2. CHAPALAMADUGU DORASWAMY, , S/O RAMAIAH,AGED ABOUT UNKNOWN, OCC CULTIVATION,R/O. P KAMMAPALLI VILLAGE, PEDDA ORAMPADU POST,OBULAVARIPALLI MANDAL, ANNAMAYYA 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 to it is humbly prayed that this Honble Court may be pleased to set aside the Impugned Common Order dated 22.01.2026 passed in I.A.No.13 of2024 in O.S.No.70 of 2018 on the file of the Court of the Civil Judge, Junior Division, Railway Kodur, in allowing the I.A filed by the Respondent No. 1/Plaintiff herein under Order I Rule 10 C.P.C. r/w. Rule 28 of Civil Rules of Practice to implead the Respondent No.2 herein as Defendant No.3 in the suit and pass such other order or orders as the Honble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner(S):

1. SIDDILINGAM GANESH NANDA

Counsel for the Respondent:

1. SRINIVASA RAO NARRA

The Court made the following:

COMMON ORDER:

Since the issue in both the Civil Revision Petitions is one and the same, heard analogously and are decided by the common order. For the sake of convenience, the facts in C.R.P. No. 1233 of 2026 are being taken for disposal of these two Civil Revision Petitions.

2. The respondent herein who is the plaintiff in the suit filed O.S. No. 70 of 2018 on the file of the Civil Judge (Junior Division) for permanent injunction against respondents 1 and 2 who are defendants 1 and 2 in the suit. While the suit is pending for trial the respondent/plaintiff filed two I.A.s one I.A. No. 13 of 2024 under Order 1 Rule 10 of CPC r/w Rule 28 of Civil Rules of Practice to implead one Chapalamadugu Doraswamy who none-other the husband of the 1st defendant and son of 2nd defendant as party to the suit and I.A. No. 623 of 2025 under Order VI Rule 17 for the amendment of the Plaint.

3. Learned trial Court Judge vide order dated 22.01.2026 has allowed both the Interlocutory Applications interalia observing that the Ad-interim injunction in I.A. No. 295 of 2018 is subsisting and the proposed defendant is none other than husband of the 1st defendant and son of 2nd defendant, the suit is pending for trial and it would avoid multiplicity of proceedings and the suit can be disposed effectively and complete adjudication and no prejudice causes to the defendants in the

suit and the defendants will have an opportunity of filing detail separate written statement.

4. C.R.P. 1233 of 2026 is filed against the I.A. No. 623 of 2024 and C.R.P. 2422 of 2026 is filed against the I.A. No. 13 of 2024.

5. The trial Court has clubbed the two interlocutory applications and passed a common order, hence this Court is inclined to hear them analogous and decide the two revisions by this common order.

6. Heard learned arguing counsel Sri P. Rajasekhar for petitioners and Sri Srinivasa Rao Narra for respondents.

7. Counsel for the petitioner (the impleaded defendant, Chapalamadugu Doraswamy) contends that the 0.24 acre plot in Sy. No. 1046/4 was allotted to Uppalapati Venkatamma is that the land to an extent Ac. 0.24 cents in Sy. No. 1046/4 has fallen to the share of one Uppalapati Venkatamma in a suit for partition in O.S. No. 68 of 2018 in the same Court. The said land was subsequently sold to one Chapalamadugu Kiran Kumar through a regular sale deed, he who executed an agreement of sale in favour of Chapalamadugu Doraswamy, for non-performance of the agreement the impleaded defendant filed suit O.S. No. 46 of 2020 against the said Kiran Kumar for Specific performance and the same was decreed, the Court has executed the sale deed in-favour the Chapalamadugu Doraswamy on

21.02.2023 and the possession was delivered and the plaintiff is not having any right title over the property in an extent of Ac. 0.24 cents in Sy. No.1046/4 and the trial Court erred in allowing the interlocutory applications.

8. Learned counsel for the petitioners argues that the respondent/plaintiff should have filed an application under Order XXI Rule 98 of the CPC and raised all objections in E.P. No. 11 of 2022 in O.S. No. 46 of 2020 on the file of this Court by filing an application under Order XXI Rule 99. Although, the pendency of O.S. No. 46 of 2020 was clearly indicated in the written statement, the respondent/ plaintiff cannot now seek impleadment or amendment of the plaint, as Order XXI Rule 101 CPC bars a separate regular civil suit by mandating that all questions relating to right, title, or interest in the property arising between the parties must be adjudicated directly by the executing Court, therefore, prayed to allow the Revision Petitions and to set aside the impugned common order dated 22.01.2026.

9. Learned counsel for the respondent/plaintiff would submit that the respondent has obtained the decree in O.S. No. 46 of 2020 fraudulently and the respondent/plaintiff is not party to the suit and the said decree and judgment is not binding on the respondent/plaintiff and further contended that the respondent / plaintiff who is 3rd party can never be impleaded as this respondent is neither a necessary or proper party to

the suit for specific performance and supported the order of the trial Court and stated that the trial Court has rightly allowed both the applications and further argued that it is not a case to interfere under Article 227 of the Constitution of India.

10. POINT FOR CONSIDERATION:

It is profitable to extract the relevant provisions of CPC:

Rule 99: Dispossession by decree-holder or purchaser. –

(1) Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession.

(2) Where any such application is made, the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

Rule 101: Question to be determined.

All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under Rule 97 or Rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other

law for the time being in force, be deemed to have jurisdiction to decide such questions.

11. Rule 101 of Order 21 of the Code, provides that the Executing Court shall be deemed to have jurisdiction to decide all questions including those relating to right, title or interest in the property arising between the parties to a proceeding or their representatives and relevant to the adjudication of the application under Rule, 97 or 99, shall be determined by the Court dealing with the application and not by a separate suit. Rule 101 of Order 21 of the Code further provides that the adjudication made under Rule 98 or Rule 100 of the Code, and an order passed thereon, shall have the same force and be subject to the same conditions as to an appeal or otherwise as if it were a decree.

12. In ***K.A. Prabhakaran vs Kuttian Prakashan And Anr.[1],*** after noticing the provisions contained in Order 21 Rules 97 to 100 of CPC. it has been held thus:

> ".A plain reading of the aforesaid provisions of Order XXI makes it clear that no application for adjudication of the right, title and interest of an obstructor would lie before he is dispossessed in execution of a decree to which he is not a party. If, however, he is dispossessed, he is given a remedy under Rule 99 of Order XXI of CPC to apply for restoration of possession to the execution Court. The execution Court on such application is required to adjudicate the question of the

[1] AIR 1985 KER 204

> right, title and interest of the dispossessed obstructor and pass appropriate orders under Rule 100 and such order of the execution Court is to be treated as a decree for all purposes including for the purpose of appeal and second appeal. The only remedy of a dispossessed obstructor is to apply under Rule 99 to the execution Court and have his claim adjudicated upon by the execution Court itself. A separate suit at his instance after dispossession will not be maintainable in view of the aforesaid provisions of the CPC as amended in 1976. This does not, however, preclude to the obstructor from having recourse to a Civil Court by way of a separate suit before he is dispossessed in execution of a decree to which he is not a party.

13. Similarly, if a proceeding under Rule 99 of Order 21 of the Code is instituted during the pendency of the suit between the parties involving same issues filed by the party to establish a right which he claims to the present possession of the property which is the subject matter of both the proceedings, cannot be allowed to go on in view of the fact that there is already a suit filed by 1st respondent seeking the permanent injunction. If the contention of the petitioner's counsel is accepted holding that the 1st respondent/plaintiff should have invoked Rule 99 of Order 21 of the Code it would overtake the suit instituted earlier and the suit filed by the 1st respondent/plaintiff and render the suit substantially infructuous.

14. The suit O.S. No.46 of 2020 filed for specific performance was decreed and the Court executed the sale deed in favour of the plaintiff (the revision petitioner herein) on 21.02.2023. Hearing about the execution of the sale deed by the Court, the respondents/plaintiff filed the applications for impleadment and for amendments of plaint on 02.01.2024. When the proceedings are not pending, the revision petitioner/impleaded defendant cannot plead that the respondent/plaintiff ought to have been filed an application under Order 21 Rule 99 C.P.C.

15. The revision petitioner/3rd defendant has knowledge about the institution of suit filed by the respondent/plaintiff. The 3rd defendant is non-other than husband of the 1st defendant, the 1st defendant who holds General Power of Attorney and son of the 2nd defendant who is plaintiff in O.S. No. 46 of 2020 has not made the present plaintiff as party to the suit, it appears that it was done deliberately avoided to make the respondent/plaintiff as party to the suit and whether there is any collusion in obtaining the decree ex-parte, decree of specific performance of the contract has to be decided. This would result in obtaining collusive decree and dispossessing the persons in possession of immoveable property in their own right. This will also result in abusing the process of the Court. The endeavour of the Court must be to safeguard against such abuse of the process of the Court so

as to avoid any injustice being caused to any party by the acts of the Court, in other words, by reason of exercise of jurisdiction by the Court or by the use of the process of the Court.

16. No doubt, Rule 99 of Order 21 also provides a remedy to such a person after he is dispossessed in the process of execution. But I am not able to see any justification for denying who is in possession of the property in his own right and not being, a party to the suit filed by the petitioner/3rd defendant, the right to resist the obtained decree.

17. In addition to this, it is also necessary to bear in mind, as observed by the Apex Court in ***Sangram Singh v. Election Tribunal***[2]***,*** that "our laws of procedure are grounded on a principle of natural justice which requires that men should not be condemned unheard, that decisions should not be reached behind their back, that proceedings that affect their lives and property should not continue in their absence and they should not be precluded from participating in them." It is also further observed by the Supreme Court in the said decision that "our laws of procedure should be construed, wherever that is reasonably possible, in the light of that principle."

18. The basic principles of our jurisprudence is that no person shall be condemned without affording him due opportunity to defend his case

[2] (1955) 1 SCC 323

and no right or interest of a person whether in immoveable or moveable property or of any other nature can be taken away without giving him due opportunity of hearing. Rules of procedure shall have to be construed and enforced to advance justice and not to defeat the substantive right of a person.

19. In view of the above discussion this Court is not inclined to meddle with orders of the trial Court.

20. Accordingly both the Civil Revision Petitions are dismissed. However, no order as to costs.

As a sequel, interlocutory applications, if any, pending in these two civil revision petitions, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 11.11.2026

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228

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

C.R.P.Nos. 1233 and 2422 OF 2026

Date: 11.11.2026

Harin