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APHC010238182026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3331]
(Special Original Jurisdiction)

THURSDAY, THE 15th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2086/2026

Between:

1. KONDEPI BHASKAR RAO, S/O VENKATESWARLU, AGED ABOUT 61 YEARS, RESIDING AT LIG-1/2002, KALLURUPALLI HOUSING BOARD COLONY, NELLORE DISTRICT.

...PETITIONER

AND

1. GANESHAM KRISHNAMMA, W/O CHINNA REDDY, AGED ABOUT 43 YEARS R/O D.NO. 24-2-15, MILITARY COLONY, GNT ROAD, NELLORE CITY.
2. GANESAM RAJASEKHAR REDDY, S/O CHINNA REDDY, AGED ABOUT 26 YEARS R/O D.NO. 24-2-15, MILITARY COLONY GNT ROAD, NELLORE CITY.

...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 allow the civil revision petition and setting aside the dismissal order passed in I.A.No. 502 of 2022 in O.S.No. 614 of 2018 on the file of the court of III Additional Civil Judge (Junior Division) Nellore. dated 28.06.2024.

IA NO: 1 OF 2026

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 condone the delay of 64 days in representing the CRP.No.2086 of 2026 in the interest of justice

IA NO: 2 OF 2026

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 Grant stay of all further proceedings in O.S No. 614 of 2018 on the file of the court of III Addl. Civil Judge (Junior Division) Nellore, SPSR Nellore District, pending disposal of the Civil Revision Petition in the interest of Justice

Counsel for the Petitioner:

1. SIVAPRASAD REDDY VENATI

Counsel for the Respondent(S):

1. C SUBODH

The Court made the following:

ORDER

The sole plaintiff filed the above Civil Revision Petition against the order dated 28.06.2024 in I.A.No.502 of 2022 in O.S.No.614 of 2018 on the file of the learned III Additional Civil Judge (Junior Division), Nellore.

2. The parties to the revision shall be referred to as per their array in the suit.

3. The plaintiff filed the suit for perpetual injunction. In the plaint, it was contended, *inter alia*, that defendant No.1 sold the plaint schedule property to an extent of 9 ankanams or 72 square yards to the plaintiff under a registered sale deed bearing document No.411 of 2015, dated 30.11.2015. The plaintiff

came into possession and has been paying house taxes. Defendants 1 and 2 own another bit of 9 ankanams, which is adjacent to the plaint schedule property, and they started constructing a building by encroaching some extent of the plaint schedule property. The defendants are making hectic efforts to dispossess the plaintiff from the plaint schedule property. The plaintiff got issued legal notices, dated 18.11.2018 and filed the above suit.

4. Defendant No.1 filed the written statement, denying the execution of the registered document. It was contended, *inter alia,* that an extent of 21 ankanams in Survey No.588, Military Colony, Kondahyapalem Gate Centre, originally belonged to the Government. The father-in-law of defendant No.1 occupied the property about 50 years back and constructed a thatched house. During the year 2008, the husband of defendant No.1 died, leaving behind wife-defendant No.1, son-defendant No.2 and daughter. The defendants have been running the fast food centre therein. Defendant No.1 removed the thatched house and constructed two asbestos roofs, one for running a tiffin shop and the other for residence. Defendant No. 1, along with her son, has been in possession and enjoyment of the property, including the plaint schedule property. The plaintiff, while coming to the fast food centre, developed an acquaintance and made defendant No.1 believe that he would marry her. He also promised to arrange finance from the bank to construct a pucca building. He obtained a registered sale deed by misrepresentation. The document is sham and nominal. Defendant No.1 subsequently came to know that the plaintiff is a married man. The plaintiff was never in possession of the plaint schedule property, and the defendants own the same. Eventually, the defendants prayed to dismiss the suit.

5. The trial in the suit has commenced. At that juncture, the plaintiff filed I.A.No.502 of 2022 under Order VI Rule 17 read with Section 151 of the Code

of the Civil Procedure, 1908 (C.P.C.) to amend the prayer by deleting the existing para 3 and substituting the same with paras 3, 3(A) to 3(D), to add new para 5 by deleting original para 5 and add prayers (a) to (f), in the place of original prayer.

6. In the affidavit filed in support of the petition, it was contended that the plaintiff filed I.A.No.22 of 2018 seeking appointment of Advocate Commissioner to note down the physical features. The Advocate Commissioner visited the suit schedule property and filed a report. The defendants encroached upon the site to an extent of 2-55 ankanams. The previous Advocate could not mention the same in the plaint and hence filed an amendment petition.

7. A counter was filed by defendant No.1 opposing the application.

8. The trial court, by order dated 28.06.2024, dismissed the application.

9. Heard Sri Sivaprasad Reddy Venati, learned counsel for the petitioner and Sri C. Subodh, learned counsel for the respondents.

10. Learned counsel for the petitioners would submit that the suit was filed for injunction simplicitor. Since the defendants encroached part of the plaint schedule property, the petition was filed seeking amendment of the suit by inserting a prayer for declaration of title, recovery of possession and other reliefs. The trial court failed to consider these aspects.

11. Learned counsel for the respondents, on the other hand, would submit that by the proposed amendment, the plaintiff intends to change the nature of the suit. The plaintiff introduces a new cause of action and new prayers under the guise of the amendment. The trial was commenced. The plaintiff failed to satisfy the due diligence test.

12. The point for consideration is whether the order, dated 28.06.2024 in I.A.No.502 of 2022 in O.S.No.614 of 2018 on the file of the learned III Additional Civil Judge (Junior Division), Nellore, warrants interference of this Court.

13. Shorn of all necessary details, the suit O.S.No.614 of 2018 was filed seeking perpetual injunction. In para No.3 of the plaint, it was pleaded that both defendants 1 and 2 are jointly constructing a building by encroaching the suit schedule property. Thus, by the date of filing of the suit, the plaintiff is aware of the encroachment. However, the plaintiff did not pray for recovery of possession at that point of time and filed the suit seeking perpetual injunction. Defendant No.1 filed a written statement and contended that the document is a result of fraud and misrepresentation and is sham and nominal. The defendants have been in possession of the plaint schedule property.

14. By way of the proposed amendment, the plaintiff is requesting the Court to declare the plaintiff's ownership over the property; direct the defendants to pay arrears of rent at the rate of Rs.18,000/- per month; direct the defendants to vacate the plaint schedule property and deliver the vacant possession. The proposed amendment sought by the plaintiff by substituting para 3(a)(b)(c) and (d) was never part of the original plaint and was introduced, for the first time, by way of the amendment. The proposed amendment, in the considered opinion of this Court, changes the nature of the suit and creates a new cause of action, which was not pleaded earlier.

15. Normally, the Court, while dealing with a petition filed under Order VI Rule 17 C.P.C., shall not go into the merits. It is a settled principle of law that an amendment can be allowed if it satisfies two conditions: (a) not work injustice to the other side, and (b) be necessary for the purpose of determining the real questions in controversy between the parties. The Court must not

refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide and dishonest amendments. The purpose and object of Order VI Rule 17 of C.P.C. is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. However, an amendment cannot be claimed as a matter of right. Of course, in all circumstances, the courts, while deciding such prayers, should not adopt a hyper-technical approach. A liberal approach should be the general rule, particularly in cases where the other side can be compensated with costs.

16. In **Sampath Kumar Vs Ayyakannu**[1], the Apex Court opined that the amendments to the plaint are necessary to avoid multiplicity of proceedings and to arrive at a just conclusion in the suit, and that neither the nature of the suit nor the cause of action would be changed.

17. In **Revajeetu Builders & Developers Vs. Narayanaswamy & Sons**[2], the Hon'ble Apex Court, after considering several judgments, laid down certain factors to be considered while dealing with the applications seeking amendment.

18. The Hon'ble Apex Court in **Life Insurance Corporation of India Vs. Sanjeev Builders Pvt. Ltd**[3]**,** after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:-

(i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.

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[1] (2002) 7 SCC 559
[2] (2009) 10 SCC 84 : 2009 SCC OnLine SC 1709
[3] (2022) 16 SCC 1 : 2022 SCC OnLine SC 1128

(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

(iii) Amendments, while generally should be allowed, the same should be disallowed if -

(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is *malafide*,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are -

(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

19. As seen from the expressions of the Hon'ble Apex Court, the prayer for amendment generally requires to be allowed unless it is mala fide. This Court is conscious that to avoid multiplicity of proceedings, if the amendment is required for effective and proper adjudication of the controversy between the parties, if the parties by way of amendment are not withdrawing any admission and if the amendment is not time-barred, generally the amendment can be allowed.

20. In the case at hand, as noted supra, in the original plaint itself, the plaintiff pleaded that the defendants encroached and started construction. In the proposed amendment, the plaintiff pleaded about defendant No.1 requesting the plaintiff to run a tiffin hotel in 4 ankanams of RCC roofed house purchased by the plaintiff, execution of an Assurance Deed, dated 03.10.2016; construction of RCC building undertaken by defendant No.1 in the site conveyed by her to her son defendant No.2. All these averments are new pleadings introduced by way of the amendment. Thus, by way of amendment, the plaintiff is introducing a new cause of action and setting out new pleadings for the first time, which were not part of the original plaint. The same is impermissible.

21. Further, the affidavit filed in support of the petition does not contain any reason, much less a valid reason, except for stating that the earlier Advocate could not plead all the necessary facts. The change of Advocate is not a ground to ask for amendment.

22. The trial Court considered all the facts and dismissed the application. The order under revision does not suffer from any illegality or irregularity. While exercising supervisory jurisdiction under Article 227 of the Constitution of India, this Court will not substitute its opinion as an appellate Court.

23. In **Nandi Infrastructure Corridor Enterprises Ltd. and Another Vs. B.Gurappa Naidu and Others**[4], the Hon'ble Apex Court by referring to the decisions reported in **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**[5]; **Estralla Rubber Vs. Dass Estate (P) Ltd.**[6], and **Garment Craft Vs. Prakash Chand Goel**[7] and considered the scope of supervisory jurisdiction under Article 227 and summarized the principles as follows:

> **"35.** In short, the principles laid down in the above matters, is as follows:
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> a) The power of superintendence under Article 227 is not to be exercised unless there has been an (a) unwarranted assumption of jurisdiction, not vested in Court or tribunal, or (b) gross abuse of jurisdiction or (c) an unjustifiable refusal to exercise jurisdiction vested in Courts or tribunals.
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> b) It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record.
>
> c) The High Court exercising supervisory jurisdiction does not act as a court of first appeal to re-appreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal."

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[4] 2026 SCC OnLine SC 745
[5] (2010) 8 SCC 329
[6] (2001) 8 SCC 97
[7] (2022) 4 SCC 181

24. Given the above discussion, this Civil Revision Petition is dismissed, confirming the order, dated 28.06.2024 in I.A.No.502 of 2022 in O.S.No.614 of 2018 on the file of the learned III Additional Civil Judge (Junior Division), Nellore. There shall be no order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

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JUSTICE SUBBA REDDY SATTI

Date : 15.10.2026

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