Date of reserved for orders : 27.07.2026
Date of pronouncement : 26.10.2026
Date of uploading : 26.10.2026

APHC010337602017

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI **[3606]**

(Special Original Jurisdiction)

MONDAY, THE 26th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

CIVIL REVISION PETITION Nos.2052 & 2071 of 2017

C.R.P.No.2052/2017

Between:

1. KOPPANA RAMESH,, S/O NAGESWARARAO AGED ABOUT 23 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT.

...PETITIONER

AND

1. KOPPANA CHINA PADMARAJU DIED, A
2. KOPPANA NAGESWARARAO, S/O CHINA PADMARAJU, AGED ABOUT 43 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT.
3. KOPPANA SATYANARAYANA, S/O CHINA PADMARAJU, AGED ABOUT 41 YEARS; R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT.
4. KOPPANA VEERABHADRARAO, S/O CHINA PADMARAJU, AGED

ABOUT 39 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT.

5. KOPPANA DYWANANDAM DYWADINAM, S/O CHINA PADMARAJU, AGED ABOUT 37 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT.
6. KOPPANA CHINABABU SATYANARAYANA, S/O CHINA PADMARAJU, AGED ABOUT 35 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT.
7. KOPPANA CHINA PADMARAJU, S/O NAGESWARARAO, AGED ABOUT 19 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT. (RESPONDENT NO 7 IS NOT NECESSARY TO THIS REVISION)

...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 against the Order in I.A. No. 128 of 2017 in O.S. No. 107 of 2006, dated 27-2-2017 on the file of the Court of the Senior Civil Judge, Peddapuram,

IA NO: 1 OF 2017(CRPMP 2691 OF 2017

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 all further proceedings in O.S.No. 107 of 2006, on the file of the Court of the Senior Civil Judge, Peddapuram East Godavari District pending disposal of the above revision and pass

Counsel for the Petitioner:

1. T V JAGGI REDDY

Counsel for the Respondent(S):

1. Nil

2. T V S PRABHAKARA RAO

C.R.P. No.2071/2017

Between:

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7. KOPPANA CHINA PADMARAJU, S/O NAGESWARARAO, AGED

ABOUT 19 YEARS, R/O DURGADA VILLAGE, GOLLAPROLU MANDAL, EAST GODAVARI DISTRICT. (RESPONDENT NO 7 IS NOT NECESSARY TO THIS REVISION)

...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 against the Order in I.A. No. 127 of 2017 in O.S. No. 107 of 2007, dated 27-2-2017 on the file of the Court of the Senior Civil Judge, Peddapuram

Counsel for the Petitioner:

1. T V JAGGI REDDY

Counsel for the Respondent(S):

1. T V S PRABHAKARA RAO
2. ELEVATED AS JUDGE

The Court made the following:

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

CIVIL REVISION PETITION Nos.2052 & 2071 of 2017

COMMON ORDER:

1. These Civil Revision Petitions are directed against the orders dated 27.02.2017 in I.A.Nos.128 and 127 of 2017 in O.S.No.107 of 2006 on the file of the learned Civil Judge (Senior Division), Peddapuram, dismissing the said applications.

2. I.A.No.128 of 2017 is filed to reopen the plaintiffs' evidence, and I.A.No.127 of 2017 is filed to summon the thumb impression registers for expert opinion.

3. The revision petitioner is the first plaintiff, respondent Nos.1 to 6 are defendants, and respondent No.7 is the second plaintiff before the trial Court. The parties are hereinafter referred to as plaintiff and defendants.

Brief Facts of the Case:

4. The plaintiffs filed O.S.No.107 of 2006 seeking the relief of partition and separate possession of their legitimate share in the suit schedule properties. The plaintiffs examined the first plaintiff as P.W.1 and his mother as P.W.2. Thereafter, the matter was posted for further evidence. As the plaintiffs did not lead further evidence, the trial Court imposed costs on them. Instead of paying the costs, the plaintiffs filed a memo bearing S.R.No.2675 of 2016, stating that they had been declared indigent persons and were unable to pay the costs. They also filed another memo bearing S.R.No.2676 of 2016, stating that they reserved their right to adduce rebuttal evidence on Issue No.1.

5. Thereafter, the defendants adduced their evidence. After the defendants completed their evidence, the plaintiffs sought permission to adduce

rebuttal evidence. The trial Court did not grant permission to adduce rebuttal evidence and posted the matter for arguments, and consequently closed the plaintiffs' further evidence.

6. During the defendants' evidence, copies of the registered Wills were confronted to D.W.4 during cross-examination and marked as Exs.A4 and A5, subject to objections. The defendants relied on an unregistered Will dated 26.12.2003, marked as Ex.B5.

7. The plaintiffs disputed the unregistered Will marked as Ex.B5. In support of their case concerning the registered Wills marked as Exs.A4 and A5, they sought an expert opinion on the signatures and thumb impressions. For examination of the thumb impressions, they intended to summon the Thumb Impression Registers from the Sub-Registrar's Office, Peddapuram, relating to the registration of Exs.A4 and A5, and send the Wills along with the registers for comparison by an expert. For this purpose, the plaintiffs filed two applications I.A.Nos.127 and 128 of 2017, seeking to reopen their evidence and summon the Thumb Impression Registers from the Sub-Registrar, Peddapuram.

8. Defendant Nos.3, 5 and 6 filed counters denying the allegations and opposing the applications. They contended that the plaintiffs' evidence had been closed because they failed to pay the costs imposed by the Court, and that their status as indigent persons did not exempt them from paying costs. At most, they could be exempted from paying court fees, but not costs. They further contended that, as the evidence of both sides had been completed, the plaintiffs cannot reopen their evidence at that stage. They also objected to summoning the public documents, contending that compelling their production would affect the functioning of the Sub-Registrar's Office. On these grounds, they sought dismissal of the applications.

9. Upon hearing both sides, the learned Judge dismissed the two applications. In I.A.No.128 of 2017, the learned Judge observed that, despite being given ample opportunities, the plaintiffs had not led further evidence and had failed to deposit the costs imposed by the Court. In I.A.No.127 of 2017, the learned Judge observed that the Court had closed the plaintiffs' evidence for non-payment of costs and that they could not, therefore, be permitted to reopen it.

10. The plaintiff, being dissatisfied with the dismissal of the applications, filed the present Civil Revision Petitions. This Court granted a stay in C.R.P.No.2052 of 2017.

Arguments:

11. Sri T.V. Jaggi Reddy, learned counsel for the plaintiff submitted that the trial Court failed to appreciate the plaintiffs' right to rebut the evidence adduced by the defendants. The dispute is registered and unregistered Wills, and the plaintiffs contend that the relevant documents must be summoned and sent for expert opinion to examine the signatures and thumb impressions. He submitted that the expert opinion was necessary to establish the plaintiffs' case and that the applications ought to have been allowed.

12. Sri T.V.S. Prabhakara Rao, learned counsel for defendant Nos.3, 5 and 6 submitted that the plaintiffs must deposit the costs before seeking any order on their applications. He argued that payment of costs was a prerequisite and that the plaintiffs had been declared indigent persons only for the purpose of instituting the suit; that declaration did not exempt them from costs imposed by the Court.

13. Learned counsel relied on the decision in **Lakshmi and another v. Chinnammal @ Rayyammal and others**[1], particularly paragraph 12, and submitted that, for a just decision, Courts should encourage the production of relevant documents. The relevant portion of paragraph 12 reads as follows:

> "12. If bringing on record a document is essential for proving the case by a party, ordinarily the same should not be refused; the Court's duty being to find out the truth. The procedural mechanics necessary to arrive at a just decision must be encouraged. We are not unmindful of the fact that the court in the said process would not encourage any fishing enquiry. It would also not assist a party in procuring a document which he should have himself filed."

14. Learned counsel further relied on **Manohar Singh v. D.S. Sharma and another**[2], arising out of Civil Appeal Nos.7554 and 7555 of 2009, particularly paragraph 9. He submitted that where costs imposed during the examination of witnesses were not paid, the Court ought to have closed the evidence of the witness, permitted the parties to lead any further evidence, and then disposed of the suit on merits. As the plaintiffs had not paid the costs in the present case, he argued that the trial Court rightly dismissed the applications. The relevant portion of paragraph 9 reads as follows:

> "9. In this case, the plaintiff has harassed the defendants and its witness by seeking repeated adjournments. In view of it, plaintiff's right to cross-examine DW2 stands forfeited. However, as costs were levied, but were not paid, the court should have closed the evidence of DW2, permitted the defendants to produce any further evidence (without any right to plaintiff to cross-examine such witnesses) and then

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[1] (2009) 13 SCC 25
[2] (2010) 1 SCC 53.

> ought to have proceeded to dispose of the suit on merits by considering the material available and hearing the arguments of defendant. The court could not have dismissed the suit."

15. Learned counsel also relied on **Kailash v. Nanhku and others**[3], arising out of Civil Appeal No.7000 of 2004, particularly paragraph 27. He contended that procedural laws provide a framework to advance justice and that no party should ordinarily be denied an opportunity to participate in the process of justice. The relevant portion of paragraph 27 reads as follows:

> "27. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the Statute, the provisions of the CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice. The observations made by Krishna Iyer, J. in Sushil Kumar Sen v. State of Bihar (1975) 1 SCC 774, are pertinent:—
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> > "The mortality of justice at the hands of law troubles a judge's conscience and points an angry interrogation at the law reformer. The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in

[3] (2005) 4 SCC 480

> judges to act ex debito justitiae where the tragic sequel otherwise would be wholly inequitable. ... Justice is the goal of jurisprudence — processual, as much as substantive.""

16. Learned counsel further submitted that, as the plaintiffs had failed to comply with the Court's direction to pay costs, the trial Court rightly dismissed the applications. He therefore submitted that no interference with the impugned orders was warranted and sought dismissal of the revision petitions.

17. In response, learned counsel for the plaintiff sought to have the revision petitions allowed, the impugned orders set aside, and an opportunity granted to the plaintiffs to lead evidence.

Discussion:

18. Heard learned counsels for the plaintiff and learned counsel for defendant Nos.3, 5 and 6, and perused the material on record. The facts shown after the evidence of both sides had been closed, the plaintiffs filed I.A.No.128 of 2017 seeking to reopen their evidence. The prayer in the application reads as follows:

> "For the reasons stated in the enclosed affidavit, the petitioners/plaintiffs pray that in the interests of justice this Hon'ble Court may be pleased to reopen the plaintiffs' side evidence to adduce rebuttal evidence on Issue No.1, else the petitioners/plaintiffs will be put to irreparable loss."

19. The connected prayer in I.A.No.127 of 2017 reads as follows:

> "For the reasons stated in the enclosed affidavit, the petitioners/plaintiffs pray that this Hon'ble Court may be pleased to direct the Sub-Registrar, Peddapuram, to send the Thumb Impression Registers (T.I. Registers) dated 17.06.2002 and 25.09.1995 relating to Exs.A4

> and A5 Wills to this Hon'ble Court, so as to enable the petitioners/plaintiffs to send the same for expert opinion, in the interests of justice, else the petitioners/plaintiffs will be put to irreparable loss."

20. In paragraph 5 of the supporting affidavit, the first plaintiff stated the reasons for seeking to reopen the plaintiffs' evidence and to obtain the relevant documents for expert opinion.

21. The Court has to consider the relief sought in the prayer portion, rather than the averments in the affidavit. In the prayer, the plaintiffs sought to reopen their evidence to adduce rebuttal evidence. The learned Judge dismissed the application, observing that the plaintiffs had been given ample opportunities to lead further evidence on payment of costs but had failed to deposit the costs. The argument are the plaintiffs' exemption as indigent persons extends to court fees and process fees; it does not, by itself, exempt them from payment of costs.

22. On perusal of the impugned order, there is no specific reference of the plaintiffs' assertion, that they had filed Memo S.R.No.2675 of 2016, stating that they had been declared indigent persons and were unable to pay the costs and Memo S.R.No.2676 of 2016, stating that they had reserved their right to adduce rebuttal evidence. The defendants admitted that the plaintiffs had instituted the suit as indigent persons. However, the impugned order does not disclose that the Court considered these memos or determined their effect before dismissing the application for reopening the evidence.

23. There is no reference that, the Court had considered the memo and granted the plaintiffs liberty to adduce rebuttal evidence. The order has not placed the legal position on the plaintiffs' right to adduce rebuttal evidence after closure of their evidence and rebuttal right.

24. The record before this Court does not disclose whether the memos bearing S.R.Nos.2675 and 2676 of 2016 are pending or any

consideration is given. In these circumstances, this Court does not consider it appropriate to examine the legality of the impugned orders at this stage, in the absence of findings by the trial Court on the plaintiffs' assertions that their indigent status excused them from paying costs and that they had reserved their right to adduce rebuttal evidence.

25. The absence of findings on these factual aspects prevents this Court from arriving at a conclusive view. Unless the trial Court considers the said memos and records its findings, this Court cannot properly examine the rejection of the plaintiffs' plea concerning non-payment of costs in view of their declaration as indigent persons. The impugned orders contain no specific findings on these material aspects. The reasons assigned by the learned Judge therefore require reconsideration.

26. In these circumstances, without expressing any opinion on the merits of the case, this Court considers it appropriate to set aside the impugned orders and remand the applications to the trial Court to consider the pleas of both parties and the relevant factual aspects, and to decide the applications afresh.

Result:

27. In the result, both the Civil Revision Petitions are allowed. The orders dated 27.02.2017 in I.A.Nos.127 and 128 of 2017 in O.S.No.107 of 2006 on the file of the learned Senior Civil Judge, Peddapuram, are set aside, and the applications are remanded to the trial Court for fresh consideration. The trial Court shall pass appropriate orders afresh after giving both parties an opportunity of being heard and in accordance with law, within a reasonable time.

No order as to costs.

Pending applications, if any, shall stand closed. The interim order granted earlier is hereby vacated.

PURUSHOTTAM KUMAR CHINTALAPUDI, J

Dt: 26.10.2026
DSV