APHC010524122026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3332]**
(Special Original Jurisdiction)

FRIDAY, THE 13th DAY OF NOVEMBER 2026

PRESENT:THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 2844/2026

Between:

1. DESILLI SHYAMASUNDARA RAO, S/O RAMANNA,AGED ABOUT 44 YEARS, TEACHER,RESIDENT AT DOOR NO.4-2-27, ATCHANNAPETA VILLAGE KORLAKOTA POST, AMADALAVALASA MANDALAM,SRIKAKULAM DISTRICT.

...PETITIONER

AND

1. DESILLI SURYANARAYANA, S/O RAMANNA,AGED ABOUT 39 YEARS, R.M.P. PRACTITIONER,RESIDENT AT DOOR NO.4-2-27, ATCHANNAPETA VILLAGE,KORLAKOTA POST, AMADALAVALASA MANDALAM,SRIKAKULAM DISTRICT
2. DESILLI RAMANNA, S/O LATE APPANNA,AGED ABOUT 76 YEARS. CULTIVATION,RESIDENT AT DOOR NO.4-2-27, ATCHANNAPETA VILLAGEKORLAKOTA POST, AMADALAVALASA MANDALAM,SRIKAKULAM DISTRICT.
3. DESILLI CHINNAMMA, W/O RAMANNA,AGED ABOUT 70 YEARS. HOUSEHOLD DUTIES,RESIDENT AT DOOR NO.4-2-27, ATCHANNAPETA VILLAGEKORLAKOTA POST, AMADALAVALASAMANDALAM,SRIKAKULAM DISTRICT.

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India/ Section 115 of CPC ,praying that in the circumstances stated in the grounds filed herein,the

High Court may be pleased toAggrieved by the Order dated Unnumbered O.S. No. 26.02.2026 passed in of 2026 in G.R. No.605 of 2025 by the learned Court of the Civil Judge Junior Division where by the plaint presented by the petitioner Amadalavalasa,was returned without numbering the suit, the above-named petitioner prefers this Civil Revision Petition

Counsel for the Petitioner:

1. SRINIVAS AMBATI

ORDER

The Civil Revision Petition is directed against the order dated 26.02.2026 passed by the learned Civil Judge (Junior Division), returning the unnumbered plaint filed by the petitioner for cancellation of the registered gift settlement deed dated 14.03.2014 and for recovery of possession of the suit schedule property from the first defendant.

2. The case of the plaintiff, is that the first defendant is his younger brother and defendants 2 and 3 are his parents. Following a partition of the family properties, a site was gifted to the plaintiff, over which he constructed a house. According to him, the first defendant agreed to look after their parents if half of the house was gifted to him. The plaintiff accordingly executed the gift settlement deed. Subsequently, the parents approached the Revenue Divisional Officer alleging that the plaintiff was not maintaining them. The Revenue Divisional Officer directed the plaintiff and the first defendant to pay maintenance of Rs.4,000/- per month to their parents.

Alleging that the gift deed had been obtained by fraud, the plaintiff instituted the suit for its cancellation and recovery of possession.

3. The trial Court observed that the plaint was not properly drafted, that the particulars of the gift settlement deed were not clearly mentioned and that the suit was filed more than three years after execution of the deed. Referring to Article 59 of the Limitation Act, 1963, it held that the suit was barred by limitation and was not maintainable. On that basis, it returned the plaint.

4. Heard Sri Srinivas Ambati, learned counsel for petitoner.

5. The question that arises for consideration is whether the trial Court was justified in returning the plaint at the stage of numbering on the aforesaid grounds.

6. In ***Gorripati Veera Venkata Rao and others v. Ethalapaka Vanaja and others***[1], this Court explained the distinction between scrutiny of a plaint for registration and adjudication of the suit. In paragraphs 42 and 50, this Court held that the office can verify compliance with the procedural requirements under the Code of Civil Procedure, 1908 and the A.P. Civil Rules of Practice and Circular Orders, 1980. Questions requiring judicial

[1]. 2025 SCC OnLine AP 50

determination must be placed before the Court. The office cannot prevent a litigant from approaching the Court by insisting upon compliance with objections unsupported by the Code or the Rules. Where an objection survives the explanation furnished on re-presentation, the matter must be placed before the Court for an appropriate judicial order. In paragraph 54, this Court further directed that the provision of law supporting an office objection should be specifically indicated.

6. This Court reiterated those principles in ***Kumari Kundrapu Priyanka and another v. Smt. Bandaru Varalakshmi and 3 others***[2]. In paragraphs 25, 26 and 30 to 32, a coordinate bench of this Court observed that the merits of a claim cannot be examined by conducting a mini trial at the stage of registration. It also emphasised the need to follow the earlier directions and to avoid unnecessary returns which deprive litigants of timely access to justice. Although that case concerned a claim petition under Order XXI Rule 58 CPC, the principle applies equally to scrutiny of a plaint.

7. In the present case, the relief sought by the plaintiff is apparent from the impugned order itself. If the particulars of the document are incomplete or inconsistent, the plaintiff may be required to clarify the same. The impugned order itself refers to the document dated 14.03.2014 as Document

[2]. 2026 SCC OnLine AP 939

No.338/2014 at one place and as Document No.3398/2014 at another. The correct particulars may be verified and incorporated in the plaint. Similarly, any defect concerning the form of the plaint or the relief may be pointed out with reference to the relevant provision of law. An observation that the drafting is unsatisfactory, without identifying the precise procedural defect, is not sufficient to refuse registration.

8. As regards limitation, Article 59 prescribes a period of three years for a suit seeking cancellation of an instrument, reckoned from the date on which the plaintiff first becomes aware of the facts entitling him to seek cancellation. The date of execution or registration may be relevant, but it need not in every case be the starting point. Where fraud is alleged, Section 17 of the Limitation Act may also have a bearing, including when the fraud could have been discovered with reasonable diligence. If exemption from limitation is claimed, the grounds must be pleaded in terms of Order VII Rule 6 CPC.

9. The mere fact that the plaintiff executed the gift settlement deed in 2014 and instituted the suit in 2026 does not, by itself, establish the date on which he became aware of the alleged fraud or the facts on which he seeks cancellation. The impugned order does not identify any specific averment conclusively establishing that such knowledge was acquired more than three years before presentation of the plaint. Equally, the subsequent proceedings

before the Revenue Divisional Officer do not, by themselves, establish that the suit is within limitation or revive a claim already barred. These aspects have to be considered in accordance with law on the basis of the pleadings and, wherever necessary, evidence.

10. There is no doubt that where a bar of limitation is apparent from the plaint read as a whole, the Court is empowered to reject the plaint under Order VII Rule 11(d) CPC, even before numbering, by passing an appropriate judicial order after hearing the plaintiff. However, where determination of limitation depends upon disputed facts, the Court cannot refuse registration by deciding those facts at the preliminary stage. Returning a plaint on the ground that the suit is time-barred is not the procedure contemplated by Order VII Rule 10 CPC. The trial Court, in the present case, proceeded to decide limitation merely with reference to the date of execution of the deed and delivery of possession. Such an approach cannot be sustained.

11. Further, the observations of the trial Court concerning the effect of registration of the gift settlement deed and the impermissibility of its unilateral cancellation do not justify refusal to number the suit. The plaintiff has approached the Civil Court seeking cancellation by a decree. Whether he has made out a case for such cancellation, or whether the alleged promise or

its breach entitles him to any relief, are matters to be considered at the appropriate stage. No opinion on those questions is expressed in this revision.

12. In the light of the law laid down in the aforesaid judgments, the impugned order dated 26.02.2026 is set aside. The petitioner is permitted to re-present the plaint before the trial Court. The trial Court shall, upon compliance with the requisite procedural formalities, register and number the suit and proceed with it in accordance with law. If any procedural defect remains, the same shall be specifically pointed out with reference to the applicable provision and a reasonable opportunity shall be afforded to the petitioner to rectify it, without unnecessary further returns.

13. It is made clear that the direction to number the suit shall not be understood as an expression of opinion on limitation, maintainability, the validity of the gift settlement deed or the entitlement of the plaintiff to the reliefs sought. All contentions of the parties, including the plea of limitation and the remedy under Order VII Rule 11 CPC, are left open to be considered independently in accordance with law, without being influenced by any observations in the impugned order or in this order.

14. Accordingly, the Civil Revision Petition is disposed of. There shall be no order as to costs.

Registry shall return the original plaint to the learned counsel for the petitioner for presentation before the trial Court.

As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

JUSTICE RAVI CHEEMALAPATI

13th November, 2026

RR