APHC010640352017

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

FRIDAY, THE 6th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL REVISION PETITION NO: 2527 OF 2017

Between:

1. Pettigappa, S/o Late Dodda Honnappa, Hindu, aged 55 years.

2. D. Chandra kanth, S/o Late Dodda Honnappa, Hindu, aged 47 years

3. Suri Babu, S/o Late Dodda Honnappa, Hindu, aged 46 years All are agriculturists, R/o Gottaguriki Golla Halli, H/o Dasappa Palyam, Guddaguriki Gram Panchayat, Rolla Mandal, Anantapur District

...PETITIONERs

AND

1. D Honnappa, S/o Late Dodda Honnappa, Hindu, aged 58 years

2. Smt Rangamma, W/o Honnappa, Hindu, aged 46 years R.1 and R.2 are Agriculturists, Rio Gottaguriki Golla Halli, 1-1/0 Dasappa Palyam, Guddaguriki Grain Panchayat, Rolla Mandal, Anantapur District

3. N Manjunath, S/o Nagappa, Hindu, aged 38 years

4. N Vannesappa, S/o Nagappa, Hindu, aged 40 years (R.3 and R.4 are R/o P. Dasappara Palyam, Rolla Mandal

...RESPONDENTs

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 toagainst the Decree and Order dt.01.04.2017 passed by Senior Civil Judge, Hindupur in I.A No.65/2017 in O.S No.26/2014

IA NO: 1 OF 2017(CRPMP 3310 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.26/2014 in the court of the Senior Civil Judge, Hindupur pending the above Revision petition

Counsel for the Petitioners: P NARAHARI BABU

Counsel for the Respondents:

The Court made the following order:

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL REVISION PETITION No.2527 OF 2017

ORDER:-

INTRODUCTORY:-

The plaintiffs in O.S. No.26 of 2014 on the file of the Court of the Civil Judge (Senior Division), Hindupur, filed I.A. No.65 of 2017 invoking Order VI Rule 17 of CPC, seeking permission for amendment of the plaint schedule for inclusion of certain properties in the partition suit, stating that they could not be included due to inadvertence. The said application was dismissed by the Court. Aggrieved thereby, the present revision is filed.

2. Despite having been taken out the notice twice and its service, the respondent/ defendant did not choose to appear before this Court. Hence, this Court is constrained to hear the revision petitioners and proceed to dispose of the matter. The suit is of the year 2014, and the impugned orders are dated 01.04.2017. Almost nine years elapsed. The case status information is also disclosing the pendency of the suit as a stayed matter. Therefore, the defendant's knowledge about the pendency of this revision need not be doubted. It is evident from their conduct that the defendants/respondents have consciously remained absent in this proceedings. After giving sufficient opportunity for the respondent/ defendant, this matter is heard.

3. For the sake of convenience parties will be hereinafter referred to as 'the plaintiffs' and 'the defendants' as per their ranking in the suit.

4. Case of the plaintiffs, for the purpose of the amendment relief, is that they have filed a suit for partition but due to their inability to gather complete information regarding the properties possessed by the joint family, all the properties could not be included in the plaint schedule. Further, a specific defence was taken by the first defendant in the suit that all the properties belonging to the joint family and devolved upon the father of the plaintiffs are not included in the plaint schedule. Upon enquiry, the plaintiffs are able to ascertain the details of the properties that have been left out; hence, they are now seeking permission to include them in plaint schedule. Hence, amendment of plaint schedule is necessary, which will not cause any prejudice to the respondent /defendant.

5. The objection of the respondents, in the form of a counter filed by the respondent No.1/ D.W1 was adopted by the respondents Nos.2, 3 and 5, in brief, is that the properties sought to be included by way of amendment do not belong to the joint family; upon noticing the written statement, to fill up the gaps in their case, the plaintiffs have filed the application seeking inclusion of the properties by way of amendment. The matter is coming up for trial. Hence, at that stage filing the application for amendment is not proper.

Reasoning of the learned Trial Court:-

6. [i] Adjournments are taken for trial on three occasions including on payment of costs.

[ii] The excuse that, to avoid multiplicity of litigations adding of properties is necessary is not convincing.

[iii] Issues are settled and the matter is posted for trial finally. At that stage, the application is moved.

[iv] The petitioners / plaintiffs did not whisper about the source from which they came to know about the properties being added as belonging to the family.

[v] The prayer is not convincing, as the petitioners/plaintiffs failed to pass the test of due diligence, to exercise the discretion in favour of the petitioners/plaintiffs.

[vi] At the stage of trial, the application for amendment cannot be entertained.

Arguments in the revision petition:-

7. [i] Trial is not commenced in the suit.

[ii] The petitioner pleaded ignorance of the existence of the property as an excuse.

[iii] The defendants themselves pleaded that certain properties are not included. Therefore, adding of property by way of amendment is permissible.

[iv] The nature of the suit will not get changed.

[v] The authorities relied upon by the Trial Court are applicable where the trial is started. In the present case trial is not commenced. Therefore, the prayer deserves positive consideration.

8. Heard the learned counsel for the revision petitioner.

9. Perused the material available on record.

10. Now the points that arise for determination in the revision are:

1) Whether the petitioners/plaintiffs are entitled for permission for amendment of the plaint? Whether the impugned orders of the Trial Court dated 01.04.2017 require any interference? If so, on what grounds, to what extent?

2) What is the result of the Civil Revision Petition?

Point No.1:-

11. It is clear that, trial is not commenced in the suit.

12. It is relevant to note the following authorities:-

[i] The Hon'ble Apex Court in ***Life Insurance Corporation of India, Vs.Sanjeev builders private Limited and Anr[1]., vide Civil Appeal No.5909 of 2022 dated 01.09.2022*** *held in para 70 as follows**:-***

> "70. Our final conclusions may be summed up thus:
>
> (i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.

[1] 2022 (16) SCC 1

(ii) 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.

(iii) The prayer for amendment is to be allowed.

(i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and

(ii) to avoid multiplicity of proceedings, provided (a) the amendment does not result in injustice to the other side, (b) 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 and (c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

(iv) A prayer for amendment is generally required to be allowed unless (i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration, (ii) the amendment changes the nature of the suit, (iii) the prayer for amendment is malafide, or (iv) by the amendment, the other side loses a valid defence. (v) In dealing with a prayer for amendment of pleadings, the court should avoid a hyper technical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs. (vi) Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed. (vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation. 9 (viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint. (ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision. (x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in

> the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed. (xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. 10 *(See Vijay Gupta v. Gagninder Kr. Gandhi & Ors., 2022 SCC OnLine Del 1897)".*"

[ii]. In ***Revajeetu Builders and Developers Narayanaswamy and sons and Others***[2]***,*** the Hon'ble Apex Court gave guidelines and principles to be considered while disposing the petition under Order VI Rule 17 of CPC seeking amendment of pleadings at para No.63 which reads as under:-

> "63. On critically analysing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.
>
> (1) Whether the amendment sought is imperative for proper and effective adjudication of the case;
>
> (2) Whether the application for amendment is bona fide or mala fide;
>
> (3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

[2] 2009 10 SCC 84

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; and (6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application."

[iii] This Court in ***D.Vasantha Vs. P. Venugopal and Others***[3]***, held at para 12*** *as follows:-*

"12. ….. This Court in **Brijgopal and others**[4] case (referred supra), relied on by the learned Counsel for the petitioner explained the stage of commencement of the trial and held that mere filing of the affidavit in lieu of chief examination of witness is not amounts to commencement of the trial. Even otherwise, the nature of amendment, now the petitioner is seeking is to add some more properties which is said to be purchased by the respondents out of joint family nucleus. 12 Whether those properties are self-acquired properties or joint family properties liable for partition can only be decided during the course of the trial and the learned trial Judge cannot reject the plea of the petitioner, only on the ground that proposed adding of properties in the plaint schedule properties said to be purchased by respondents long prior to filing of the suit. After considering the nature of the suit and admitted relationship between the parties, as plea of limitation is the mixed question of law and fact which can only be decided at the time of disposal of the main case, the learned trial judge ought not to have dismissed the petition filed by the petitioner seeking amendment of plaint only on the ground that trial of the suit has been commenced. Though petitioner has filed PW-1 not affirmed her chief examination affidavit before the Court and no documents were marked on her behalf. It is no doubt true that there is a delay in seeking amendment of the plaint, though this suit is filed in the year 2006, the petition seeking for amendment is filed in the year 2014, for which any

[3] 2023(5) ALT 187 (S.B.)

[4] 2013 2 ALT 353

> prejudice is caused to the respondent due to delay in seeking for amendment can be compensated by 13 way of costs. The orders passed by the Court below are not sustainable either in law or on facts warrants interference of this Court invoking supervisory jurisdiction under Article 227 of the Constitution of India."

13. In view of the above precedential guidance and in the factual scenario discussed above, and as the inclusion of the properties will not cause any prejudice to the respondents, since the rival contentions of the parties can be considered on trial on the basis of evidence that may be adduced by both sides, this Court finds that the prayer for amendment deserves favourable consideration. Point No.1 is answered accordingly.

Point No.2:-

14. For the aforestated reasons, the **Civil Revision Petition is allowed,**

[i] I.A. No.65 of 2017 in O.S. No.26 of 2014 on the file of the Court of the Civil Judge (Senior Division), Hindupur, is allowed.

[ii] The petitioner shall carry out the amendment and file neat copy as per law.

[iii] The Trial Court is requested to dispose of the suit in accordance with law as expeditiously as possible.

[iv] Both parties are directed to co-operate with the Trial Court for early disposal of the matter. There shall be no order as to costs.

Consequently, miscellaneous applications pending, if any, shall also stand dismissed.

JUSTICE A.HARI HARANADHA SARMA

Date: 06.11.2026

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HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

CIVIL REVISION PETITITON No.2527 of 2017

Dated 06.11.2026

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