IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE TWENTY EIGHTH DAY OF APRIL TWO THOUSAND AND TWENTY SIX

PRESENT

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

CIVIL REVISION PETITION NO: 2070 OF 2025

Petition under Article 227 of Constitution of India aggrieved by the order dated 05-03-2025 passed in I.A.No.116 of 2025 in OS.No.1227 of 2022 on the file of the Court of the Senior Civil Judge, Ranga Reddy District at Kukatpally.

Between:

M/s Narne Constructions Pvt Ltd, represented by its Authorised Representative Babu Rao Kowkuntla, s/o Rama Rao Kowkuntla, aged about 65 years, Occ: Private Employee having office at 1 Gunrock Enclave Secunderabad, Telangana 500 009

...PETITIONER/DEFENDANT NO 7

AND

1. B Radha Krishna Rao, s/o B Madhava Rao, aged 52 years, Occ: Employee r/o H No 1-9-25, Road No.2, Vidyut Nagar Dilsukhnagar, Hyderabad - 500 060
2. K Soma Narsaiah, s/o late K Rajalah, aged 52 years, Occ: Business r/o H No 1-9-25, Road No. 2, Vidyut Nagar Dilsukhnagar, Hyderabad - 500 060

...RESPONDENTS/PLAINTIFFS

3. Smt T Galayya, w/o T Venkatram Reddy, aged about 59 years, Occ: Housewife r/o Gouraram village, Vargal mandal Medak district
4. N Ram Reddy, s/o N Narayana Reddy, aged about 50 years, Occ: Agriculture r/o Plot No 20, Shobana Colony Balanagar, Hyderabad.
5. Nimma Narsi Reddy, s/o N Ram Reddy, aged 34 years, Occ: Agriculture r/o Thokatta village, Secunderabad 500 009
6. M Venkat Reddy, s/o Shri Ram Reddy, aged 33 years, Occ: Agriculture r/o Thokatta village, Secunderabad 500 009
7. Sri Malini Cooperative Housing Society, represented by its President Smt K laxmi devi, w/o Madhava Reddy, aged 56 years, r/o 38, Park View Enclave Hasmathpet, Secunderabad 500 011
8. Wincon Housing Private Ltd, represented by its Managing Director K Madhava Reddy, s/o Gal Reddy, aged 59 years, r/o 39, Park View Enclave Hasmathpet Road, Boinapally Secunderabad 500 011

(Respondents / Defendant No's 1 to 6 are rep by their SAGPA holder M/s Narne Constructions Pvt Ltd rep by its Chairman and MD Col Ranga Rao

Narne (Retd), s/o late N V Naidu, aged about 62 years, r/o 86 Gunrock Enclave Secunderabad 500 009, who is Defendant No 7)

9. Yadavalli Venkata Sandeep, s/o Yadavalli Venkata Sridhar, aged about 36 years, Occ: Physician (MD) R/o H No 3-6-44/13, Plot No 38 Road No 13, opp Sri Venkateshwara Nagar Colony Kukatpally, Hyderabad 500 072

...RESPONDENTS/DEFENDANTS

I.A. NO: 1 OF 2025

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 grant stay of all further proceedings in OS No.1227/2022 on the file of the Hon'ble Senior Civil Judge, Ranga Reddy District at Kukatpally, pending disposal of CRP.

Counsel for the Petitioner: Mr. Katepalli Sai Sashi Yadav

Counsel for the Respondents No.1 & 2: Mr. Ramaraju Shyam Sunder

Counsel for the Respondent No.9: Sri P. Rajagopal Reddy

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

DATE: 28.04.2026

CIVIL REVISION PETITION No.2070 OF 2025

Between:

M/s. Narne Constructions Pvt. Ltd.,

...Petitioner/Defendant No.7

AND

B. Radha Krishna Rao and another.

...Respondents/Plaintiffs

Smt. T.Galayya and 6 others.

...Respondents/Defendants

ORDER

This Civil Revision Petition is filed by the petitioner/defendant No.7 aggrieved by the decretal order dated 05.03.2025 passed in I.A.No.116 of 2025 in O.S.No.1227 of 2022 on the file of the Senior Civil Judge, Ranga Reddy District at Kukatpally.

2. Heard Mr. Katepalli Sai Sashi Yadav, learned counsel appearing for the petitioner/defendant No.7, and Mr. Ramaraju Shyam Sunder, learned counsel appearing for the respondents/plaintiffs. Perused the material available on record.

3. <u>The brief facts of the case are as follows:</u>

(i) The respondents/plaintiffs filed O.S.No.1227 of 2022 seeking specific performance of contract. The petitioner/defendant No.7 states that it had handed over all original documents to its previous counsel, Sri K.R. Koteswara Rao, for filing in the suit and was under the bona fide impression that the same were filed before the trial Court. However, upon verification by the present counsel, it was found that the original documents were not available on record. The petitioner contacted the previous counsel and, upon receiving no response, issued a letter dated 25.01.2025. Despite acknowledgment, no reply was received.

(ii) The petitioner had obtained an acknowledgment from the previous counsel at the time of handing over the original documents, which has been filed to establish bona fides. Accordingly, I.A.No.116 of 2025 was filed under Section 65 of the Indian Evidence Act seeking permission to lead secondary evidence in respect of the documents mentioned therein. The trial Court, *vide* order dated 05.03.2025, dismissed the said application. Aggrieved thereby, the present Civil Revision Petition is filed.

4. The Trial Court, *vide* order dated 05.03.2025, dismissed I.A.No.116 of 2025 observing as follows:

"It is appearing that the defendant No.7 without pressurizing his earlier counsel for return of the documents he has filed the present petition. It is the duty of the counsel to return all the documents to his party whenever the vakalat was withdrawn. Mere the earlier counsel for the defendant No.7 not returned the original documents is not a ground to lead secondary evidence in respect of the above said documents. Even no foundation laid by the defendant No.7 about the existence and conditions of the above said documents. In such circumstances the defendant No.7 is not entitled to lead secondary evidence in respect of the above said documents. Accordingly the point for consideration is answered.

In the result, the petition is dismissed."

5. Learned counsel for the petitioner/defendant No.7 submits that the trial Court failed to appreciate that the original documents were entrusted to the previous counsel and the petitioner cannot be made to suffer due to the negligence or inaction of the said counsel. It is further submitted that the petitioner is in possession of xerox copies of the documents, which have been produced through the learned counsel, and therefore the petitioner is entitled to lead secondary evidence in accordance with law.

6. On the other hand, learned counsel appearing for the respondents/plaintiffs did not oppose allowing of the Civil Revision Petition.

7. Point for Consideration:

The point that arises for consideration, is whether the trial Court was justified in dismissing the application filed under Section 65 of the Indian Evidence Act seeking permission to lead secondary evidence.

8. It is well settled that a litigant should not suffer for the lapse or negligence of the counsel, particularly when custody of the documents is satisfactorily explained and foundational facts regarding their loss or non-availability are placed before the Court.

9. In the present case, the petitioner has asserted that the original documents were entrusted to the previous counsel and has placed on record an acknowledgment to that effect. The explanation regarding non-return of the documents appears reasonable. It is also submitted that xerox copies of the said documents are available and have been produced by the learned counsel for the petitioner.

10. In such circumstances, this Court is of the view that sufficient foundation has been laid for permitting secondary evidence under Section 65 of the Indian Evidence Act. When photocopies of the documents are available, the same can be received as secondary evidence, subject to proof, relevancy, and admissibility.

11. Having regard to the above facts and circumstances, this Court is of the view that the order dated 05.03.2025 passed in I.A.No.116 of 2025 in O.S. No.1227 of 2022 cannot be sustained and is liable to be set aside.

12. Accordingly, the Civil Revision Petition is allowed. The order dated 05.03.2025 passed in I.A.No.116 of 2025 in O.S.No.1227 of 2022 on the file of the Senior Civil Judge, Ranga Reddy District at Kukatpally, is set aside. The petitioner/defendant No.7 is permitted to lead secondary evidence by producing xerox copies of the documents, subject to proof, relevancy, and admissibility in accordance with law. Considering that the suit is of the year 2009, the trial Court is directed to complete the process of recording secondary evidence, as expeditiously as possible. There shall be no order as to costs.

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

SD/- P.C.SULEKHA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Civil Judge, Ranga Reddy District at Kukatpally.
2. One CC to Mr. Katepalli Sai Sashi Yadav Advocate [OPUC]
3. One CC to Mr. Ramaraju Shyam Sunder, Advocate [OPUC]
4. One CC to Sri P. Rajagopal Reddy, Advocate [OPUC]
5. Two CD Copies

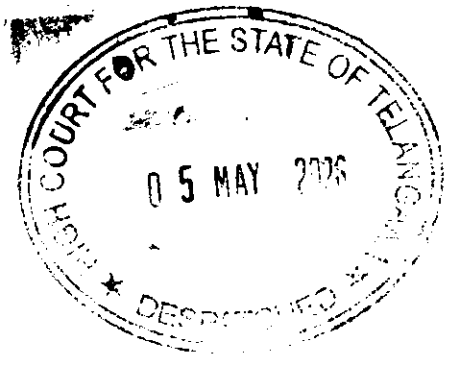
KAM/KA

HIGH COURT

DATED: 28/04/2026

ORDER

CRP.No.2070 of 2025



ALLOWING THE CRP

(7) NJ 4/5/26