**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

**THE HONOURABLE THE ACTING CHIEF JUSTICE P.SAM KOSHY**

**Civil Revision Petition No.2601 of 2026**
(CNR No.HBHC010573102026)

Date of Order : 06.11.2026

**Reserved on: 09.10.2026** **Pronounced on : 06.11.2026**
**Uploaded on : 06.11.2026**

**Between:**

M. Manohar

**…Petitioner**

AND

M. Ganesh and another

**…Respondents**

**ORDER:** *(per The Hon'ble The Acting Chief Justice Sri P. Sam Koshy)*

Heard Mr. Ayush Sonthalia, learned counsel for the petitioner; and Mr. G. Ramachandra Reddy, learned counsel for the respondent.

**2.** The present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the petitioner challenging the docket order dated 04.08.2026, in O.S. No. 1458 of 2018, passed by XXI Junior Civil Judge, City Civil Court at Hyderabad.

**3.** *Vide* the impugned order, the Trial Court held that the Agreement of Sale dated 08.09.1987 and the Agreement of Delivery of Possession dated 08.09.1987, tendered by the petitioner in his evidence as DW-1, to be inadmissible in evidence for want of registration for any purpose.

**4.** The facts of the case are that the respondent was the plaintiff, while the petitioner was the defendant in the suit. An objection was raised on behalf of the plaintiff before the Trial Court regarding the admissibility of an Agreement of Sale and an Agreement of Delivery of Possession, both dated 08.09.1987, sought to be marked in evidence on behalf of the defendant. The objection was raised on the ground of deficiency in stamp duty and want of registration. DW-1 sought to mark the Agreement of Sale and the Agreement of Delivery of Possession in his evidence. It was stated on behalf of the defendant that through the Agreement of Delivery of Possession, DW.1 intended to prove ownership and possession over a part of the suit schedule property.

**5.** The Trial Court relied upon the decision of the Hon'ble Supreme Court in **M.S. Ananthamurthy vs. J. Manjula**[1] wherein it was held that where an interest in property was transferred by a written document, registration of such document was compulsory under Section 17(1)(b) of the Registration Act, 1908. Reliance was also placed upon the case of **Vinod Infra Developers Ltd. v. Mahaveer Lunia**[2] wherein it was held

[1] (2025) 10 SCC 596
[2] 2025 SCC OnLine SC 1208

that failure to seek specific performance or to register the document within the period prescribed under Section 23 of the Registration Act, 1908 rendered the foundational document unenforceable in law.

**6.** The Trial Court further relied upon the decision of the erstwhile High Court of Andhra Pradesh in **Golla Dharmanna vs. Sakari Poshetty**[3] wherein it was held that mere payment of stamp duty and penalty, and compliance with the provisions of the Indian Stamp Act, 1899 would not automatically render a document admissible in evidence if, under law, the document was also required to be registered.

**7.** On behalf of the defendant, reliance was placed upon the decision of the Hon'ble Supreme Court in the case of **R. Hemalatha vs. Kashthuri**[4] to contend that unregistered documents could be marked in evidence. The Trial Court held that the said decision was of no assistance to the defendant as it related to the marking of unregistered documents in a suit for specific performance of contract. It was noted that the present suit had been filed for perpetual injunction against the defendant and that the defendant had not filed any counter-claim seeking enforcement of the agreements dated 08.09.1987. The agreements were sought to be relied upon only as a ground of defence by asserting ownership and possession over a part of the suit schedule property.

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[3] 2013 SCC OnLine AP 653
[4] (2023) 10 SCC 725

**8.** In view of the aforesaid principles, the Trial Court held that as both the agreements dated 08.09.1987 were unregistered, they were inadmissible in evidence under Section 49(c) of the Registration Act, 1908. Accordingly, the objection raised on behalf of the plaintiff to the admissibility of the Agreement of Sale and the Agreement of Delivery of Possession, both dated 08.09.1987, on the ground of want of registration, was sustained.

**9.** Learned counsel for the petitioner argued that the Trial Court failed to consider that both the 'Agreement of Sale and the Agreement of Delivery of Possession' are dated 08.09.1987 and that on the said date an 'agreement of sale of immovable property' even if coupled with delivery of possession was not compulsorily registrable in the erstwhile composite State of Andhra Pradesh. He further argued that under Section 54 of the Transfer of Property Act, 1882 a contract for the sale of immovable property does not, of itself, create any interest in or charge on such property; consequently, such a document did not fall within the ambit of Section 17(1)(b) of the Registration Act, 1908 as the law stood on 08.09.1987, and the very foundation of the impugned order is contrary to law.

**10.** Learned counsel for the petitioner relied upon the law declared by the Hon'ble Supreme Court in the case of **Shrimant Shamrao Suryavanshi vs. Pralhad Bhairoba Suryavanshi**[5] wherein it is held that a transferee who had taken possession in part performance of an agreement of sale can

[5] (2002) 3 SCC 676

defend and protect his possession under Section 53A of the Transfer of Property Act, 1882 even where a suit for specific performance of the agreement would be barred by limitation, so long as he is ready and willing to perform his part of the contract.

**11.** Learned counsel for the petitioner contended that the reliance of the Trial Court in the case of **K.B. Saha and Sons (P) Ltd. v. Development Consultant Ltd.**[6] is misplaced. In that case the unregistered lease was sought to be used to prove the very clause of the document which attracted the requirement of registration, whereas in the present case the fact of possession exists independently of the terms of the subject documents andit itself recognises that a document inadmissible for want of registration may nevertheless be used as evidence of a collateral transaction not required to be effected by a registered instrument.

**12.** Having heard the learned counsel for the petitioner and on perusal of records, the question that falls for our determination is whether the Agreement of Sale and the Agreement of Delivery of Possession both dated 08.09.1987 which are unregistered could be received in evidence at the instance of the defendant in a suit for perpetual injunction in order to prove ownership and possession over a part of the suit schedule property having regard to Section 49 of the Registration Act, 1908 and Section 17(1)(b) of that Act and whether the order of the Trial Court sustaining the plaintiff's

[6] (2008) 8 SCC 564

objection calls for interference under Article 227 of the Constitution of India?"

**13.** The petitioner invokes the supervisory jurisdiction of this Court under Article 227 of the Constitution of India which is not an appellate authority. It does not permit this Court to re-examine the order of the Trial Court as if in a first appeal or to substitute its own view merely because another view is possible. It is exercised to correct a want of jurisdiction or a patent illegality or a perversity that has resulted in a miscarriage of justice. The impugned order is a docket order on the admissibility of two documents tendered through DW-1. It does not finally decide the suit. The petitioner must therefore show a clear error that goes beyond a difference of opinion.

**14.** The proviso to Section 49 of the Registration Act, 1908 allows an unregistered document that affects immovable property to be received in evidence of a contract in a suit for specific performance and as evidence of part performance for the purposes of Section 53A of the Transfer of Property Act and as evidence of a collateral transaction that is not required to be effected by a registered instrument. The petitioner relies on **R. Hemalatha** (supra) for the first limb. The Trial Court held that the decision was concerned with the marking of unregistered documents in a suit for specific performance. The present suit is for perpetual injunction.

The defendant has filed no counter-claim for enforcement of the agreements. The defendant does not seek to prove a contract in aid of a suit for specific performance. He seeks to prove ownership. The proviso does not extend to that purpose. This Court agrees with the Trial Court. This Court also notes the reliance of the Trial Court on **Vinod Infra Developers Ltd.** (supra) for the position that where specific performance is not sought and the document is not registered the foundational document is unenforceable in law.

**15.** The Trial Court has recorded that the defendant seeks to rely on the Agreement of Delivery of Possession to prove ownership and possession over a part of the suit schedule property. Both agreements were relied on only as a ground of defence by asserting ownership and possession. The petitioner does not dispute that record. The defendant therefore does not tender the Agreement of Sale merely as a contract. He tenders it together with a second instrument as proof that he has become the owner of a part of the property and that possession was delivered to him in pursuance of the sale. Ownership of immovable property of the value involved can pass only by a registered instrument of conveyance in terms of Section 54 of the Transfer of Property Act read with Section 17 of the Registration Act. A document that purports to declare or assign a right in immovable property cannot be received to prove such a right unless it is registered. This is the effect of Section 49(c) of the Registration Act, 1908. The Trial Court was

right to apply that principle to the use for which the documents were sought.

**16.** The contention of the petitioner that the reliance of the Trial Court on **K.B. Saha and Sons (P) Ltd.** (supra) is misplaced because possession exists independently of the terms of the documents. The principle in that decision is that an unregistered document that is required to be registered may be used for a collateral purpose only if the collateral transaction is independent of or divisible from the transaction that required registration and is not itself one required to be effected by a registered instrument. A document is not admissible to prove any matter that is directly or substantially concerned with the transaction affecting the property. The defendant here wishes to use the Agreement of Delivery of Possession for the very purpose for which it was executed namely to show that possession was delivered under the sale and that ownership has resulted. That is the main transaction and is not a collateral one. If possession is a fact independent of the documents as the petitioner says then it may be proved by other legally admissible evidence. It cannot be proved through an unregistered instrument that records the very transfer which the law requires to be registered.

**17.** The Trial Court, therefore, correctly held that the Agreement of Sale dated 08.09.1987 and the Agreement of Delivery of Possession dated 08.09.1987 were inadmissible in evidence for the purpose of proving

ownership and possession over the suit schedule property. The impugned docket order does not suffer from any jurisdictional error, perversity, or illegality warranting any interference by this Court.

**18.** For the foregoing reasons the Civil Revision Petition stands dismissed. The question framed therefore is answered against the petitioner and in favour of the respondent.

**19.** As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

**P. SAM KOSHY, ACJ**

Date: 06.11.2026
GSD