

Reserved on	04.12.2025
Pronounced on	08.01.2026
Uploaded on	08.01.2026

APHC010510032023



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

**[3333]**

**THURSDAY, THE EIGHTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY SIX  
PRESENT  
THE HONOURABLE SMT JUSTICE V.SUJATHA**

**CIVIL REVISION PETITION No.2580 and 2581 of 2023**

**CIVIL REVISION PETITION NO: 2580/2023**

**Between:**

- 1.GADDE VENKATA SUSEELA, D/O  
GADDEVENKATESWARA RAO, AGED 50 YEARS, R/O  
D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDI  
MANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
- 2.CHERUKURI SATYANARAYANA,, S/O JANARDHANA RAO,  
HINDU, AGED ABOUT 50 YEARS, AGRICULTURAL  
COOLIE, R/O ELAMARRU VILLAGE, PEDAPARUPUDI  
MANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
- 3.CHERUKURI BALASESHU,, S/O SATYANARAYANA,  
HINDU, AGED ABOUT 33 YEARS, AGRICULTURE COOLIE,  
R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDI  
MANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
- 4.CHEKURI HARI KRISHNA, , S/O SATYNARAYANA, HINDU,  
AGED ABOUT 32 YEARS, REAL ESTATE BUSINESS, R/O  
D.NO.4-89, OPPOSITE APSRTC BUS STAND, UCO BANK  
UPSTARI, HANUMAN JUNCTION, BAPULAPADU MANDAL,  
KRISHNA DISTRICT.
- 5.NANDELLA DEVIKA,, W/O LATE ANJANEYULU, HINDU,  
AGED ABOUT 48 YEARS, HOUSE WIFE, R/O HANUMAN  
JUNCTION, BAPULAPADU MANDAL, KRISHNA DISTRICT.
- 6.VADDE NAGAMANI,, W/O LATE SUBBA RAO, HINDU,  
AGED ABOUT 46 YEARS, HOUSE WIFE, R/O ELAMARRU  
VILLAGE, PEDAPARUPUDI MANDAL, KRISHNA DISTRICT

**...PETITIONER(S)**

**AND**

1. GADDE SEETHAMAHA LAKSHMI, W/O LATE VENKATESWARA RAO, HINDU, AGED 72 YEARS, R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDIMANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
2. GADDE RAVI KUMAR, S/O LATE VENKATESWARA RAO, HINDU, AGED ABOUT 45 YEARS, PRIVATE EMPLOYEE, R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDIMANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
3. GADDE LAKSHMI NARAYANA, S/O LATE VENKATESWARA RAO, HINDU, AGED ABOUT 45 YEARS, PRIVATE EMPLOYEE, R/O 1-9-324/113/1, VN REDDY NAGAR COLONY, ZPHS SCHOOL, KUSHIGUDA, SECUNDRABAD, HYDERABAD, TELANGANA - 500062.
4. THE BRANCH MANAGER, THE GUDIVADA COOPERATIVE URBAN BANK LTD., GUDIVADA HEAD OFFICE BRANCH.
5. THE BRANCH MANAGER, KRISHNA DISTRICT COOPERATIVE CENTRAL BANK LTD., HANUMAN JUNCTION.

**...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 Aggrieved by the orders dated 07/08/2023 passed by the Court of Prl. Junior Civil Judge, Gudivada, in I.A. No.156 of 2020 in I.A. No.343 of 2019 in O.S. No.92 of 2019, the Petitioners beg to submit the present Revision Petition

**IA NO: 1 OF 2023**

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 may be pleased to stay all further proceedings in O.S. No.92 of 2019 on the file of Prl. Junior Civil Judge, Gudivada, and pass such

**Counsel for the Petitioner(S):**

1. P S P SURESH KUMAR

**Counsel for the Respondent(S):**

1. KAMBHAMPATI RAMESH BABU
- 2.

**CIVIL REVISION PETITION NO: 2581/2023****Between:**

1. GADDE VENKATA SUSEELA, D/O GADDEVENKATESWARA RAO, AGED 50 YEARS, R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDI MANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
2. CHERUKURI SATYANARAYANA,, S/O JANARDHANA RAO, HINDU, AGED ABOUT 50 YEARS, AGRICULTURAL COOLIE, R/O ELAMARRU VILLAGE, PEDAPARUPUDI MANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
3. CHERUKURI BALASESHU,, S/O SATYANARAYANA, HINDU, AGED ABOUT 33 YEARS, AGRICULTURE COOLIE, R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDI MANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
4. CHEKURI HARI KRISHNA,, S/O SATYNARAYANA, HINDU, AGED ABOUT 32 YEARS, REAL ESTATE BUSINESS, R/O D.NO.4-89, OPPOSITE APSRTC BUS STAND, UCO BANK UPSTARI, HANUMAN JUNCTION, BAPULAPADU MANDAL, KRISHNA DISTRICT.
5. NANDELLA DEVIKA,, W/O LATE ANJANEYULU, HINDU, AGED ABOUT 48 YEARS, HOUSE WIFE, R/O HANUMAN JUNCTION, BAPULAPADU MANDAL, KRISHNA DISTRICT.

**...PETITIONER(S)****AND**

1. GADDE SEETHAMAHA LAKSHMI, W/O LATE VENKATESWARA RAO, HINDU, AGED 72 YEARS, R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDIMANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
2. GADDE RAVI KUMAR, S/O LATE VENKATESWARA RAO, HINDU, AGED ABOUT 45 YEARS, PRIVATE EMPLOYEE, R/O D.NO.2-118, ELAMARRU VILLAGE, PEDAPARUPUDIMANDAL, KRISHNA DISTRICT, GUDIVADA J.C.J.C.
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HYDERABAD, TELANGANA 500062.

4. THE BRANCH MANAGER, THE GUDIVADA COOPERATIVE URBAN BANK LTD., GUDIVADA HEAD OFFICE BRANCH.
5. THE BRANCH MANAGER, KRISHNA DISTRICT COOPERATIVE CENTRAL BANK LTD., HANUMAN JUNCTION.

**...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 Aggrieved by the orders dated 07/08/2023 passed by the Court of Prl. Junior Civil Judge, Gudivada, in I.A. No.871 of 2022 in LA. No.156 of 2020 in O.S. No.92 of 2019,

**IA NO: 1 OF 2023**

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.92 of 2019 on the file of Prl. Junior Civil Judge, Gudivada, and pass

**Counsel for the Petitioner(S):**

1. P S P SURESH KUMAR

**Counsel for the Respondent(S):**

1. KAMBHAMPATI RAMESH BABU
- 2.

**The Court made the following:**

**COMMON ORDER:**

Civil Revision Petition No.2580 of 2023 is filed by the petitioners-plaintiffs under Article 227 of the Constitution of India challenging the order dated 07.08.2023 passed in I.A.No.156 of 2020 in I.A.No.343 of 2019 in O.S.No.92 of 2019 by the Principal Junior Civil Judge, Gudivada, whereby, the Trial Court allowed the said interlocutory application filed Under Order VI Rule 17 of Code of Civil Procedure (for short "C.P.C.") to permit the respondents/defendants to amend the pleadings mentioned in the counter.

2) Civil Revision Petition No.2581 of 2023 is filed by the petitioners-plaintiffs under Article 227 of the Constitution of India challenging the order dated 07.08.2023 passed in I.A.No.871 of 2022 in I.A.No.156 of 2020 in O.S.No.92 of 2019 by the Principal Junior Civil Judge, Gudivada, whereby, the Trial Court allowed the said interlocutory application filed Under Order VIII Rule 1 (A) and Section 151 of the C.P.C. to receive the enclosed document filed along with the application i.e. Will dated 18.01.2019 and to mark the same.

3) Since the petitioners and the respondents in both the revision petitions are one and the same and the issue involved in these revisions is identical, I find that it is appropriate to decide these revision petitions by way of a common order.

4) The petitioners-plaintiffs filed O.S.No.92 of 2019 for partition and separate possession of the suit schedule properties.

Respondent Nos.1 to 3 are the defendants and they are contesting the suit by filing written statement. The petitioners herein also filed I.A.No.343 of 2019 under Order XXXIX Rule 1 and 2 requesting the trial Court to grant injunction not to alienate the suit schedule properties. When the said interlocutory application was coming up for arguments, respondent Nos.1 to 3 filed I.A.No.871 of 2022 (subject matter of C.R.P.No.2581 of 2023) under Order VIII Rule 1(A) of CPC to receive a Will deed dated 18.01.2019 and mark the same as exhibit. Along with the said petition to receive Will deed dated 18.01.2019, the respondents – defendants also filed another petition requesting the trial Court to amend counter-affidavit and to delete certain portions in the counter affidavit. Though the petitioners herein opposed the said amendments, the trial Court vide orders dated 07.08.2023 allowed the said I.A.No.156 of 2020 in I.A.No.343 of 2019 in O.S.No.92 of 2019 on payment of costs of Rs.100/- payable to the respondents therein. I.A.No.871 of 2022 in I.A.No.156 of 2020 filed by the defendants to receive the Will dated 18.01.2019 was also allowed by the trial Court on payment of Rs.100/- payable to the respondents therein. Aggrieved by the same, the petitioners – plaintiffs filed these two revision petitions.

5) When civil revision petition No.2580 of 2023 filed against the order passed in I.A.No.156 of 2020 to amend the counter, came up for hearing, on 13.10.2023, this Court passed the following interim order:

“Having regard to the reasons mentioned in the ground of revision and taking into account the submissions of the learned

counsel for the petitioners, there shall be an interim stay of all further proceedings in O.S.No.92 of 2019 on the file of learned Principal Junior Civil Judge, Gudivada for a period of four (4) weeks.”

6) Thereafter, the said interim order has been extended from time to time.

7) Learned counsel for the revision petitioners contended that the proposed amendment to counter is not permissible under Order VI Rule 17 of C.P.C. since the proposed amendments are intending to withdraw the basic facts admitted in the original Counter filed by defendant No.1 during her life time. Order VIII Rule-1A of CPC has to be invoked only for the purpose of filing documents in main Suit but not in Interlocutory Applications. Hence, the Petition (I.A.No.871 of 2022, subject matter of C.R.P.No.2581 of 2023) filed by the Respondent Nos.1 to 3 is not sustainable and the same needs to be dismissed. The respondents pleaded about the Will Deed dated 18.01.2019 in the Written Statement, but failed to file the same. The reason mentioned in the affidavit filed in support of I.A.No.871 of 2022 is that the said Will Deed was in his possession. The said reason is not permissible as it is the duty of the respondents to file the supporting documents along with the Written Statement, therefore, the orders passed by the trial Court in I.A.No.156 of 2020 in I.A.No.343 of 2019 in O.S.No.92 of 2019 and in I.A.No.871 of 2022 in I.A.No.156 of 2020 in O.S.No.92 of 2019 are liable to be set aside.

8) Learned counsel for the respondent Nos.1 to 3 – defendant Nos.1 to 3 contended that pleadings can be amended at any stage of the proceedings and Will deed dated 18.01.2019 is very much necessary for effective adjudication of the case, and the proposed amendment would not change the nature of the suit, as such the trial Court rightly allowed those petitions and requested to dismiss the revisions.

9) As seen from the material on record, late Gadde Venkateswararao has four daughters (Plaintiff No.1, 5 & 6 and Late Cherkuri Bhavani) and two sons who are defendant Nos.2 and 3. Defendant No.1 is the wife of Late Gadde VenkateswaraRao. Plaintiff No.2 is the husband of Late Cherkuri Bhavani and Plaintiffs Nos.3 and 4 are Children of Late Cherkuri Bhavani. Plaintiffs and defendants are having right over the Plaint A and B Schedule Properties which were purchased by Late Gadde Venkateswararao. Similarly, plaintiffs and defendants have right over the deposits detailed in “C” Schedule Property which were made by Late Gadde Venkateswararao with the Gudivada Co-operative Urban Bank Limited. Gadde Venkateswararao died intestate on 27.03.2019 leaving behind the plaintiffs and defendant Nos.1 to 3 as his Legal Heirs. Hence, plaintiffs and defendant Nos.1 to 3 are entitled for 1/7<sup>th</sup> share each. Hence, they filed O.S. No. 92 of 2019 seeking Partition and Separate possession. Along with the suit, plaintiffs filed I.A.No.343 of 2019 seeking injunction against the defendants from alienating the suit schedule properties. The respondents-defendant Nos.1 to 3 filed I.A.No.156 of 2020 seeking amendment of pleadings

in Counter in I.A.No.343 of 2019 by deleting certain portions and to substitute the same with new pleadings regarding the vested right and remainder rights of defendant No.1.

10) Respondents – defendants filed I.A.No.156 of 2020 under Order VI Rule 17 of C.P.C. to amend the pleadings. For better appreciation of the case, it is apposite to extract Oder VI Rule 17 of C.P.C.

**“17. Amendment of pleadings.—**The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

11) It can be understood from the above that Order VI Rule 17 consists of two parts viz., the first part is that the Court may at any stage of the proceedings allow either party to amend pleadings and the second part is that such amendment shall be made for the purpose of determining the real controversies raised between the parties.

12) Over the years, through numerous judicial precedents certain factors have been outlined for the application of

Order VI Rule 17 of C.P.C. The Hon'ble Apex Court in "***Life Insurance Corporation of India Vs. Sanjeev Builders Pvt. Ltd. And Another***<sup>1</sup>", relied on by the learned counsel for the petitioners, after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles:

(i) 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 Code of Civil Procedure.

(ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.

(iii) Amendments, while generally should be allowed, the same should be disallowed if –

(a) 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.

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<sup>1</sup> 2022 SCC OnLine 1128

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is malafide,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are-

(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint."

13) In the present case, the defendants filed the said interlocutory application to delete the sentence Nos.3 to 7 in page No.6 of the counter from top which are as follows:

"According to the terms of the said Will the petition 'A' schedule property and AC.0.08 cents of site situated in Bapulapadu village and fixed deposit were bequeathed to 1<sup>st</sup> respondent absolutely and they are described in the 'A' schedule of the said Will".

14) The above sentences have to be substituted with the following.

"According to the terms of the said Will the life interest in the petition 'A' schedule properties alone bequeathed to the 1st defendant except fixed deposits by the deceased to enjoy the income without any right of alienation and after death of the 1<sup>st</sup> petitioner the vested remainder rights were bequeathed to the respondents 2 and 3 absolutely. The fixed deposit amounts were bequeathed to the 1<sup>st</sup> respondent absolutely."

15) It appears that the proposed amendment to counter is intending to withdraw the basic facts admitted in the original Counter by defendant No.1 during her life time. Defendant No.1, during her life time pleaded some aspects in the counter. Now by virtue of deleting the same, the respondents – defendants cannot be permitted to limit the share of defendant No.1 in the property. This will result in the change of shares in the property, since the mother's share has to be allotted to all the parties and if the proposed amendment is accepted, the exclusive share of the mother will go to respondent Nos.2 and 3. The respondents – defendants are trying

to withdraw the clear admission made by them by way of proposed amendments. As per the principle laid down by the Hon'ble Apex Court in "**Life Insurance Corporation of India Vs. Sanjeev Builders Pvt. Ltd. and Another**" (referred supra), if the amendment is intending to withdraw any clear admission made by the party which confers a right on the other side, the same should be disallowed and that the other side should not lose a valid defence by the amendment. If the amendment sought for by the plaintiffs affects the rights of the defendants, it cannot be permitted. As per the law laid down in the said judgment, 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. Further, no valid reasons were mentioned in the affidavit filed in support of the I.A.No.156 of 2020 as to why the proposed amendment is necessary for effective adjudication of the *lis* pending between the parties. After the death of defendant No.1 who filed the original Written Statement and original Counter in I.A. No. 343 of 2019, the proposed amendment is not permissible, since the said amendment would change the very admissions made by the deceased defendant No.1. Therefore, the order dated 07.08.2023 passed by the trial Court in I.A.No.156 of 2020 in I.A.No.343 of 2019 is liable to be set aside.

16) Further, respondents-defendants filed I.A.No.871 of 2022 in I.A.No.156 of 2020 under Order VIII Rule 1 (A) of C.P.C. to receive the Original Will dated 18.01.2019 and mark the same as exhibit.

17) Order VIII Rule 1 (A ) of C.P.C. permits the parties to file the documents in their support with the leave of the Court.

18) Learned counsel for the petitioners-plaintiffs contended that as the respondents – defendants did not file the Will dated 18.01.2019 along with the written statement, the genuineness of the same is doubtful.

19) Learned counsel for the respondents – defendants contended that the Court should take a lenient view when an application is made for production of the documents and procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. In support of his contentions, he relied on **“Sugandhi (Dead) by L.Rs. and another Vs. P.Rajkumar represented by his Power Agent Imam Oif<sup>2</sup>”**, wherein the Hon’ble Apex Court held as follows:

“It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice

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<sup>2</sup> (2020) 10 SCC 706

and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the Court should take a lenient view when an application is made for production of the documents”

20) Admittedly, the respondents – defendants filed written statement in O.S.No.92 of 2019, in paragraph No.9 of the written statement, the defendants referred to the Will dated 18.01.2019, which is as follows:

“It is submitted that the said Venkateswara Rao executed a Will dated 18.01.2019 relating to all his movable and immovable properties and the said Venkateswara Rao executed the said will in a sound and disposing state of mind and it was his last Will and it came into operation after his death.”

21) It is clear from the above, that the defendants referred to the Will dated 18.01.2019, but the same was not filed along with the written statement. However, the respondents – defendants filed I.A.No.871 of 2022 in I.A.No.156 of 2020 to receive Will dated 18.01.2019.

22) The genuineness of the document has to be considered after examining the evidence adduced by both parties as per the procedure provided. Mere suspicion about the genuineness of Will dated 18.01.2019 is not sufficient to prevent the respondents – defendants from filing the same. Genuineness or otherwise of the

Will sought to be marked will be decided after examination of the witnesses. Further, the petitioners-plaintiffs will get an opportunity to cross-examine the defendants with regard to the Will dated 18.01.2019 at the time of their examination.

23) As there is a recital about the Will dated 18.01.2019 in the original pleading i.e. the written statement with regard to the said Will, which is sought to be received by way of filing I.A.No.871 of 2022 in I.A.No.156 of 2020 in O.S.No.92 of 2019, there is no hindrance to receive the same. But, in view of the findings of this Court with regard to I.A.No.156 of 2020 in I.A.No.343 of 2019 in O.S.No.92 of 2019 (subject matter of C.R.P.No.2580 of 2023), the I.A.No.871 of 2022 filed in I.A.No.156 of 2020 to receive the Will dated 18.01.2019 cannot be allowed by this Court. However, the respondents – defendants are at liberty to file fresh interlocutory application before the trial Court with a request to receive the Will dated 18.01.2019.

24) Accordingly, the Civil Revision Petition Nos.2580 and 2581 of 2023 are allowed setting aside the order dated 07.08.2023 passed in I.A.No.156 of 2020 in I.A.No.343 of 2019 in O.S.No.92 of 2019 and in I.A.No.871 of 2022 in I.A.No.156 of 2020 in O.S.No.92 of 2019. However, the respondents – defendants are at liberty to file fresh interlocutory application before the trial Court with a request to receive the Will dated 18.01.2019, on such filing, the trial Court may pass appropriate orders keeping in view the law laid down by the Hon'ble Apex Court in ***Sugandhi (Dead) by L.Rs. and another Vs.***

***P.Rajkumar represented by his Power Agent Imam Oli'*** (referred supra) and the observations made hereinabove. No costs.

25) Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

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**JUSTICE V.SUJATHA**

08.01.2026

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