

APHC010304772025



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

[3332]

FRIDAY, THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 1515/2025

Between:

1. Sidagam Jatlamma, W/O Satyanarayana, aged about 58 years, occ- Housewife, r/o D.no. 14-222, Yeleswaram Village, Yeleswaram Mandal, Kakinada district, erstwhile East Godavari District.

...petitioner

AND

1. Pandaranki Suramma, died
2. Pandaranki Veerababu, s/o Late Yerakayya, aged about 56 years, occ- Cultivation, r/o. D.No. 17-14-193, College Road, Yeleswaram village, Yeleswaram Mandal, Kakinada district, erstwhile East Godavari District.
3. Pandaranki Nukaraju, s/o Late Yerakayya, aged about 54 years, occ- Employee, R/o. D.No.1-19-310, R.T.C. colony, Yeleswaram village, Yeleswaram Mandal, Kakinada district, erstwhile east godavari district.
4. Bobbati Bogeswari, w/o Satyanarayana, Aged about 60 years, occ Housewife, R/o. D.No. 11-27-15, Sivaji Nagar, Gajuwaka, Vishakhapatnam, Vishakhapatnam district.
5. Majji Parvathi, w/o Siva Kumar, Aged about 52 years, occ- Housewife, R/o. D.no. 17-167, Thotavari Veedhi, Dowleswaram, Rajahmundry, Rajahmundry district, erstwhile East Godavari district

...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 set aside the order dated 16.04.2025 made in I.A.No.457 of 2025 in O.S.No.98 of 2018 pending (Senior Division), Peddapuram, East Godavari District, and allow the Interlocutory applications and pass

IA 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 may be pleased to grant stay of all further proceedings in O.S.No. 98 of 2018 pending on the file of The Civil Judge (Senior Division), Peddapuram, East Godavari District, pending disposal of the above CRP and pass

Counsel for the Petitioner:

1.A K KISHORE REDDY

Counsel for the Respondent(S):

1.L J VEERA REDDY

2.

The court made the following order:

The present civil revision petition is filed questioning the legality and correctness of the order dated 16.04.2025 in I.A.No.457 of 2025 in O.S.No.98 of 2018 on the file of learned civil judge(senior Division), Peddapuram, East Godavari.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner/plaintiff filed O.S.No.98 of 2018 for partition of plaint schedule properties among the family members. In the said suit, the plaintiff filed I.A.No.457/2025 under Order VI Rule 17 for amending the name of the plaintiff in short and long cause title as SidgamJatlamma and also for amending the schedule in Item No.1 of the plaint schedule property (A Schedule property) as Ac.0.03 cents in place of 1100 Sq.yards or Sq.mtrs. The said application was

opposed by the defendants by filing counter inter alia contending that there is negligence on the part of the petitioner in not seeking amendments earlier and seeking the amendment when it is coming for evidence of defendants, after completion of plaintiff's evidence. It was further stated that the said application was filed only to coverup the laches on the part of the petitioner. After hearing both the parties, learned trial court has dismissed the said application on the ground that there is negligence on the part of the petitioner in not filing amendment petition at the earlier stage and that amending the schedule in item no.1 of plaint schedule property would change the nature of the suit as the oral and documentary evidences of both the parties are on record. Assailing the said order, the present revision was filed.

3. Heard Sri K.Nagendra Reddy, learned counsel representing learned counsel for the revision petitioner and Sri L.J.Veera Reddy, learned counsel for the respondents.

4. Learned counsel for the revision petitioner in elaboration to what has been stated in the grounds of the revision and the contents of the affidavit filed along with interlocutory application contended that, the trial court failed to see that boundaries prevail over the extents and amending of extents in the suit schedule property does not change the nature of the suit, which is filed for partition of the plaint schedule property. He further contended that, due to typographical error, the plaintiff's name was wrongly mentioned in the cause title by adding extra alphabet 'a' in her name and the said mistake was recently identified as such sought amendment in the name also. The court

below has failed to see that, amending the petitioner's name along with extents in the plaint schedule property does not cause any prejudice to the respondents and it won't change the nature of the suit as well. In the said circumstances, dismissing the said application seeking amendments is erroneous, as such, prayed to consider the revision.

5. On the other hand, learned counsel for the respondents submitted that, while seeking amendment after the trial has commenced, the party has to show due diligence in filing the same, at the belated stage. He further submitted that, in the present case, the petitioner/plaintiff had failed to show due diligence in not filing the said application at appropriate stage. Therefore, the learned trial court has rightly dismissed the application. He further submitted that, the petitioner has not raised or urged any valid grounds warranting the interference of the court, as such prayed to dismiss the revision.

6. Perused the record and considered the submissions of both the learned counsel.

7. Order VI Rule 11 of CPC postulates amendment of pleadings at any stage of the proceedings. In ***Pirgonda Hongonda Patil Vs Kalgonda Shidgonda Patil***¹, which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions: (a) of not working injustice to the other side and (b) of being necessary for the purpose of

¹ AIR 1957 SC 363

determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs.

8. The law succinctly laid down from the expressions is that the requirement of satisfying the due diligence concept for the trial once commenced and in particular for post trial amendment is a mandatory requirement being a pre-requisite, besides the other considerations, where the amendment is necessary to resolve the real controversy and where does not cause grave prejudice or injustice to other side and where it does not alter the cause of action or inconsistent to the existing material in the pleadings on record. It can be allowed where the amendment is necessary to explain the material on record.

9. In view of the above, this court is of the opinion that, amending the name of the plaintiff in the cause title and amending the schedule in Item No.1 of the plaint schedule property (A Schedule property) as Ac.0.03 cents in place of 1100 Sq.yards or Sq.mtrs, does not change the nature of the suit and ultimately the suit will be for partition only. The court below, without observing the same, has erroneously dismissed the application, as such, the same has to be set aside. Therefore, this court is inclined to allow the revision.

Accordingly, the civil revision petition is ***allowed*** and the order dated 16.04.2025 in I.A.No.457 of 2025 is hereby set aside. Consequently, I.A.No.457 of 2025 is allowed. No costs.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

BRS