

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

CIVIL REVISION PETITION NO: 2455/2025

Between:

1. BETHALA JAYA RAJU, (DIED),
2. BETHALA JAYAPRADA,, W/O. JAYARAJU, AGED 55 YEARS. FEMALE, CULTIVATION, R/O D.NO.5-180, SANTHOSAPURAM, DIRUSUMARRU VILLAGE, BHIMAVARAM MANDAL, W.G.DT.
3. BETHALA YESURATNAM,, S/O. JAYARAJU, AGED 23 YEARS, MALE, CULTIVATION, R/O D.NO.5-180, SANTHOSAPURAM, DIRUSUMARRU VILLAGE, BHIMAVARAM MANDAL, W.G.DT.
4. BETHALA JHANSIRANI,, W/O. PANDU, AGED 25 YEARS, FEMALE, R/O. GARAVUPETA, CHURCH VEEDHI, GUNUPUDI, BHIMAVARAM, W.G.DT.
5. BETHALA ESTRURANI,, D/O. JAYARAJU, AGED 21 YEARS ,FEMALE, CULTIVATION, R/O D.NO.5-180, SANTHOSAPURAM, DIRUSUMARRU VILLAGE BHIMAVARAM MANDAL, W.G.DT.

...PETITIONER(S)

AND

1. BETHALA MANIKYALA RAO, S/o. Philip, Male, 28 years, Farmer, R/o D.No.5-82, Dirusumarru village, Bhimavaram Mandal, West Godavari District.

...RESPONDENT

DATE OF ORDER PRONOUNCED : 30.06.2026

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers may be allowed to see the order? : Yes/No
2. Whether the copy of order may be marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to see the fair copy of the order? : Yes/No

SUBBA REDDY SATTI, J

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

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...RESPONDENT

! Counsel for Petitioner : G. Gopi Krishna, learned counsel representing Sri Ravi. C. Siddharth, learned counsel

^ Counsel for Respondents : None appeared

< Gist:

> Head Note:

? Cases referred:

- 1) (2022) 16 SCC 1 : 2022 SCC OnLine SC 1128
- 2) 1990 (1) ALT 209
- 3) 1998(2) ALT 313
- 4) 1993 (2) ALT 317
- 5) 2006 (1) ALD 116

This Court made the following:

Date of reserved for orders : --
Date of pronouncement : 30.06.2026
Date of uploading :

APHC010442412025



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

[3331]

TUESDAY, THE 30th DAY OF JUNE 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2455/2025

Between:

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- 4.BETHALA JHANSIRANI,, W/O. PANDU, AGED 25 YEARS, FEMALE,
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- 1.BETHALA MANIKYALA RAO, S/o. Philip,Male,28years, Farmer, R/o
D.No.5-82, Dirusumarru village, Bhimavaram Mandal,West Godavari
District.

...RESPONDENT

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 dt. 18.07.2025 in I.A.No. 274/2024 in

O.S.No.49/2017 on the file of I Additional Junior Civil Judge, Bhimavaram, 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 to stay the operation of the order dt. 18.07.2025 in I.A.No.274/2024 in O.S.No. 49/2017 on the file of I Additional Junior Civil Judge, Bhimavaram, pending disposal of the above Civil Revision Petition, and pass

Counsel for the Petitioner(S):

1.RAVI C SIDDHARTH

Counsel for the Respondent:

1.

The Court made the following:

::ORDER ::

The defendants in the suit filed the above civil revision petition assailing the order dated 18.07.2025 passed in I.A.No.274 of 2024 in O.S.No.49 of 2017 on the file of the learned I Addl. Junior Civil Judge, Bhimavaram.

2. Heard Sri G. Gopi Krishna, learned counsel representing Sri Ravi. C. Siddharth, learned counsel for the petitioners. Despite service of notice, none appeared for the respondent.

3. For the sake of convenience, the parties to this C.R.P. shall be referred to as per their array in the suit.

4. The plaintiff filed the aforementioned suit against the defendants seeking eviction of the defendants from the scheduled premises, to put the plaintiff in vacant possession of the same and for recovery of the arrears of rent. The defendants filed a written statement and have been contesting the suit. The 1st defendant died, and the legal representatives were brought on record as defendants 3 to 5.

5. Pending the suit, the plaintiff filed I.A.No.274 of 2024 under Order 6 Rule 17 of the Code of Civil Procedure (C.P.C), to amend the plaint by incorporating paragraph Nos.5(b) to 5(e); to add a certain portion in para No.7 and further prayed to add the relief of declaration. In the affidavit filed in support of the petition, it was pleaded that the plaint schedule property is the ancestral property. Originally, the scheduled property belonged to one Sri Bethala Jeremaihayya, the grandfather of the petitioner. The said Bethala Jeremaihayya executed a Will dated 25.05.1982 in favour of his only son, Bethala Philip. After the death of said Bethala Philip, in partition, the plaintiff got 8 ½ cents and his brother got 8 ½ cents. The defendants pleaded rights over the plaint schedule property, and hence, the application was filed seeking amendment.

6. A counter-affidavit was filed on behalf of the 3rd defendant. It was contended that the deceased 1st defendant in the written statement asserted ownership, based on a possessory agreement of sale executed by the father of the plaintiff dated 13.06.1994. However, the plaintiff did not take steps to amend the prayer for the last seven years. The relief claimed by the plaintiff is barred by limitation.

7. The Trial Court, by order dated 18.07.2025, allowed the application.

8. Learned counsel for the petitioners would submit that the suit for a declaration has to be filed within three years as mandated under Article 58 of the Limitation Act (hereinafter referred to as 'the Act'). Hence, the relief sought under the amendment is barred by limitation. The Trial Court failed to consider the same. The application was filed after the trial commenced. The plaintiff failed to explain the due diligence as per the proviso to Order VI Rule 17 CPC.

9. The points for consideration are:

- a. Whether the amendment sought by the plaintiff i.e. declaration of title in respect of immovable property, is barred by limitation?

- b. Whether Art 58 of the Limitation Act or Art 65 of the Limitation Act would apply in respect of immovable property?
- c. Whether the order 18.07.2025 passed in I.A.No.274 of 2024 in O.S.No.49 of 2017 on the file of the learned I Addl. Junior Civil Judge, Bhimavaram, suffers from any illegality and warrants interference of this Court?

10. As noted *supra*, initially, the plaintiff filed suit for eviction of the defendants from the scheduled premises and to put the plaintiff in vacant possession of the same and for recovery of the arrears of rent. The scheduled property is immovable. Pending the suit, after commencement of trial, I.A. was filed to amend the plaint by incorporating paragraph Nos.5(b) to 5(e); to add a certain portion in para No.7 and further prayed to add the relief of the declaration. The Trial Court, by order dated 18.07.2025, allowed the I.A.

11. It is a settled principle of law that an amendment can be ordered if it satisfies two conditions: (a) of not work injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. The Court must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide and dishonest amendments. The purpose and object of Order VI Rule 17 of the Code is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. However, an amendment cannot be claimed as a matter of right. Of course, in all circumstances, the courts, while deciding such prayers, should not adopt a hyper-technical approach. A liberal approach should be the general rule, particularly in cases where the other side can be compensated with costs.

12. The Hon'ble Apex Court in ***Life Insurance Corporation of India Vs. Sanjeev Builders Pvt. Ltd***¹, after considering numerous precedents concerning 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 CPC.

(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.

(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.”

¹ (2022) 16 SCC 1 : 2022 SCC OnLine SC 1128

13. In this case at hand, the trial Court opined that the amendments to the plaint are necessary to avoid multiplicity of proceedings and to arrive at a just conclusion. In fact, the proposed amendment, in this court's considered opinion, will not establish an entirely new case. The amendment is necessary for an effective adjudication of the lis between the parties.

14. The main contention of learned counsel for the petitioner is that the declaration sought is barred by limitation. One must seek a declaration within three years under Article 58 of the Act. As per Article 58 of the Act, the period of limitation, *"To obtain any other declaration is three years from the date when the right to sue first accrues."*

15. Though the argument of the learned counsel sounds attractive at first breadth, the legal regime is otherwise. The said contention is misconceived, and in fact, the answer to the said question was settled about three decades ago.

16. In **Pavan Kumar v. K. Gopala Krishna**² a learned single judge of the composite high court considered the scope of Articles 58 and 65 of Limitation and observed that wherein it was observed that:

"18. ...where a suit is filed based on title but claiming declaration of title to the suit property with consequential relief of possession, Article 65 of the Limitation Act would apply, and Article 58 would have no application. Article 58 applies only to a case where declaration simplicitor is sought, that is, without further relief."

17. Later, the matter was carried to the Division Bench. The Division Bench of the composite High Court dismissed the LPA and observed at para 11 that we are not inclined to differ with the view taken by the learned single judge, and further observed that it cannot be seriously disputed that the relevant Article applicable is Article 65 of the Act, as the suit is not for a declaration simplicitor³.

² 1990 (1) ALT 209

³ 1998(2) ALT 313

18. In **Surabhi Baburao vs Vullingala Suryanarayana and Ors**,⁴, another learned Single Judge of the Composite High Court considered the applicability of the appropriate article in respect of immovable property and observed as follows:

“10. The declaration sought for by way of the proposed amendment is in respect of the immovable property.

11. Part V of the Limitation Act contains Articles, including Article 65, applicable for suits relating to immoveable property; whereas, Part III which contains Article 58 deals with suits relating to declaration. When there is a specific chapter viz., Part V relating to suits for immoveable property, Article 65 which is relevant Article which provides for limitation, has to be applied and not Article 58 which provides limitation for other declarations.”

19. Placing reliance upon the above judgements, another learned single judge in **Mechineni Chokka Rao and Ors. vs Sattu Sattamma**⁵, while dealing with the identical issue, observed as follows:

“11. One shall not be oblivious of the fact that part-V of first division specifically deals with category of suits relating to immovable property. Coming in the domain of Part-V, Articles 64 and 65 specifically deal with the period of limitation to institute a suit for possession of immovable property based on previous possession and to institute a suit for possession of immovable property or any interest therein based on title. Having regard to the categorisation sought to be made in the Schedule, although Part-III of the first division thereof apparently deals with suits relating to declarations, that part does not deal with suits relating to immovable property inasmuch as Part-V thereof exclusively deals with the suits pertaining to immovable property, prima facie it appears, therefore, that notwithstanding the fact that the suit is filed for the relief of declaration but the suit is in respect of an immovable property, Article 58 of the Act has no application, instead Articles 61 to 67, which

⁴ 1993 (2) ALT 317

⁵ 2006 (1) ALD 116

specifically deal with the suits relating to immovable property, seem to be applicable.

21. The preponderance of authority which holds the view that in respect of declaratory suits pertaining to immovable property, the period of limitation is governed by Articles 64 and 65 but not Article 58 of the Act is in conformity with the Scheme of the Act, as discussed hereinabove.”

20. Thus, a conspectus of the authorities referred to supra, in a suit relating to immovable property, Part V of the Limitation Act would apply, viz, Article 65 but not Article 58. In the case at hand, the suit was initially filed seeking a perpetual injunction in respect of immovable property. Pending the suit, after seven years, the interlocutory application was filed seeking amendment, one for declaration, and as the same is governed by Article 65 of the Limitation Act. Article 58 of the Act does not apply. In such a scenario, the contention of learned counsel for the petitioner that the proposed amendment is barred by limitation merits no consideration and falls to the ground.

21. Since the Trial Court exercised the jurisdiction vested in it and allowed the application, this Court does not find any illegality or irregularity in the order passed by the Trial Court warranting interference.

22. Given the facts and circumstances of the case, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Date: 30.06.2026
TVN

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

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THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION No.2455 OF 2025

Date: 30.06.2026
TVN