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

[3327]

**TUESDAY, THE 25th DAY OF AUGUST 2026
PRESENT**

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CIVIL REVISION PETITION NO: 1791/2026

Between:

...PETITIONER

AND

...RESPONDENT

Counsel for the Petitioner:

1. RAMAKRISHNA AKURATHI

Counsel for the Respondent:

1. MEDAPATI SANTOSH REDDY

THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY**CIVIL REVISION PETITION No. 1791 OF 2026****ORDER :**

The present Civil Revision Petition arises out of the Order dated 08.05.2026 passed in I.A.No.309 of 2026 in H.M.O.P. No.181 of 2021 on the file of the Civil Judge (Senior Division), Narsapur, whereby the petition filed by the petitioner / respondent, under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'CPC') read with Rule 28 of the Civil Rules of Practice to amend counter filed by him, was dismissed.

2. Heard the learned counsel for the petitioner and the learned counsel for respondent. Perused the record.

3. H.M.O.P. No.181 of 2021 on the file of the Civil Judge (Senior Division), Narsapur has been filed by the respondent/petitioner, under Section 9 of the Hindu Marriage Act, 1955, against the petitioner/respondent, seeking restitution of conjugal rights. The petitioner/respondent filed his counter in the HMOP and is contesting the case. Enquiry in the said HMOP commenced. P.Ws.1 to 3 were examined on behalf of the respondent/petitioner, and evidence on her behalf was closed. The case is coming up for evidence on behalf of the petitioner/

respondent. At that stage, he filed I.A.No.309 of 2026, under Order VI Rule 17 CPC read with Rule 28 of the Civil Rules of Practice, seeking amendment of counter filed by him.

4. It is stated in the affidavit filed by the petitioner/respondent in support of the amendment petition that due to typographical errors, mistakes crept in, in the counter, and sought the following amendments in the counter filed by him.

(1) Substitute the word 'petitioner' in place of 'respondent' after the word 'on the ground of impotency of the', in para No.3 Line No.11 of the counter;

(2) Substitute the word 'petitioner' in place of 'respondent' after the word '8.00 AM' before the word 'grandmother got expired' in para-No.13 Line No.7 from the bottom of the counter;

(3) Substitute the word 'petitioner' in place of 'respondent's' after the word 'got expired' before the word 'father', in para-No.13 Line No.6 from the bottom of the counter;

(4) Substitute the word 'respondent' in place of 'petitioner' before the word 'and his parents' after the word 'The said allegations is false. The', in para-No.20 Line No.4 of the counter;

(5) Substitute the word 'petitioner' in place of 'respondent' after the word 'are not interested and' before the word 'is not fit for marital life', in para-No.24 Line No.3 from the bottom.

The said petition was dismissed by the trial Court vide the impugned Order. Hence, the present Civil Revision Petition.

5. Learned counsel for the petitioner contended that some typographical mistakes were crept in, in the counter filed before the trial Court, which were noticed at the time of preparing examination-in-chief of the petitioner/ respondent, and that the said mistakes are -in line no.11 of para 3, as 'impotency of the respondent' instead of 'impotency of the petitioner'; in para 13-line no.7 from bottom as 'Respondent grandmother got expired. Respondent's father' instead 'petitioner grandmother got expired. Petitioner's father'; in line no.4 of para no.20 as 'The petitioner and his parents never' instead of 'The respondent and his parents never', and para 24-line no.3 from the bottom as 'respondent is not fit for marital life' instead of 'petitioner is not fit for marital life'. He submits that the said mistakes are only typographical mistakes, but do not amount to admissions, and the same are not intentional, and the proposed amendments sought in the counter will not change the nature of defence. He submits that

adding or substituting or altering a defence does not amount to creating a new cause of action, but the trial Court did not consider these aspects in right perspective. Hence, he prays to allow the CRP.

6. Learned counsel for the petitioner relied on a decision of the Hon'ble Apex Court in *Baldev Singh & others v. Manohar Singh & another*¹, wherein it is held thus:

“...That apart, mere delay of three years in filing the application for amendment of the written statement could not be a ground for rejection of the same when no serious prejudice is shown to have been caused to the plaintiff/respondent No.1 so as to take away any accrued right. ...

...That apart, it is now well settled that an amendment of a plaint and amendment of a written statement are not necessarily governed by exactly the same principle. It is true that some general principles are certainly common to both, but the rules that the plaintiff cannot be allowed to amend his pleadings so as to alter materially or substitute his cause of action or the nature of his claim has necessarily no counterpart in the law relating to amendment of the written statement. Adding a new ground of defence or substituting or altering a defence does not raise the same problem as adding, altering or

¹ Judgment dated 03.08.2006 in Appeal (Civil) No.3362 of 2006

substituting a new cause of action. Accordingly, in the case of amendment of written statement, the courts are inclined to be more liberal in allowing amendment of the written statement than of plaint and question of prejudice is less likely to operate with same rigour in the former than in the latter case.”

7. On the other hand, learned counsel for the respondent contended that the aforesaid mistakes are not typographical mistakes, but would amount to admissions, which cannot be permitted to be withdrawn. He submits that the HMOP is of the year 2021 and the counter was filed on 13.10.2022, and enquiry in HMOP commenced on 21.4.2023; that after lapse of nearly 3 ½ years of filing the counter and after closure of evidence of respondent/petitioner’s side, the petitioner/respondent cannot be permitted to withdraw the said admissions by way of the proposed amendment. He submits that proviso to Order VI Rule 17 CPC does not permit amendments after commencement of trial, unless the Court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before commencement of trial, and the respondent failed to show as to why he could not file such application for amendment before commencement of trial, and considering these aspects, the trial

Court rightly dismissed the petition, and there are no grounds to interfere with the impugned order.

In support of his contention, the learned counsel relied on a decision in *J.Samuel & others v. Gattu Mahesh & others*², wherein it is held thus: (paragraph 12)

“The primary aim of the court is to try the case on its merits and ensure that the rule of justice prevails. For this the need is for the true facts of the case to be placed before the court so that the court has access to all the relevant information in coming to its decision. Therefore, at times it is required to permit parties to amend their complaints. The Court’s discretion to grant permission for a party to amend his pleading lies on two conditions, *firstly*, no injustice must be done to the other side and *secondly*, the amendment must be necessary for the purpose of determining the real question in controversy between the parties. However, to balance the interests of the parties in pursuit of doing justice, the proviso has been added which clearly states 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.*”

² 2012 (2) ALT 40 (SC)

He also relied on a decision in *Nandi Infrastructure Corridor Enterprises Ltd & Ors. v. B.Gurappa Naidu & Ors*³, wherein it is held thus: (paragraph 35)

“In short, the principles laid down in the above matters is as follows:

(a) The power of superintendence under Article 227 is not to be exercised unless there has been an (a) unwarranted assumption of jurisdiction, not vested in Court or tribunal, or (b) gross abuse of jurisdiction or (c) an unjustifiable refusal to exercise jurisdiction vested in Courts or tribunals.

(b) It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record.

(c) The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal.”

³ MANU/SC/0425/2026

8. Now, the point for consideration is whether the proposed amendments sought by the petitioner can be permitted and whether the impugned Order passed by the trial Court is sustainable in law ?

9. Order VI Rule 17 CPC deals with amendment of pleadings. Under the aforesaid Rule, 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. Proviso to the said Rule makes it clear that no application for amendment shall be allowed after 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 commencement of trial.

10. In the case on hand, the respondent herein filed H.M.O.P. No.181 of 2021 on the file of the Civil Judge (Senior Division), Narsapur against the petitioner herein, under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights. After filing counter by the petitioner/respondent, enquiry in the said HMOP commenced. Evidence on behalf of the respondent/

petitioner was closed and the HMOP is coming up for evidence on behalf of the petitioner/respondent.

11. It is the case of the petitioner/respondent that at the time of preparing affidavit in *lieu* of his examination-in-chief, he noticed the following typographical mistakes crept in, in the counter filed by him in the HMOP, viz. instead of 'impotency of the petitioner', it was mentioned as 'impotency of the respondent' in line no.11 of para 3; instead of 'petitioner grandmother got expired. Petitioner's father', it was mentioned as 'Respondent grandmother got expired. Respondent's father' in para 13-line no.7 from bottom; instead of 'The respondent and his parents never', it was mentioned as 'The petitioner and his parents never' in line no.4 of para no.20; and instead of 'petitioner is not fit for marital life', it was mentioned as 'respondent is not fit for marital life' in para 24-line no.3 from the bottom.

According to the petitioner, these mistakes are not intentional, but due to typographical mistakes, and factually also, some of them correlate and suit to the facts of the case. According to the petitioner, the proposed amendment, if allowed, does not amount to withdrawal of admissions, since they are only typographical mistakes.

12. Whereas, according to the respondent, if the proposed amendment is allowed, it would amount to withdrawal of admissions, and that though the counter was filed on 13.10.2022 and the respondent and her witnesses were cross-examined pursuant to the said defence and the petitioner did not come forward with the application for amendment at that stage, and hence, the present amendment application amounts to after-thought, after lapse of nearly 3 ½ years of filing the counter and after closure of evidence of respondent/petitioner's side. It is also her case that proviso to Order VI Rule 17 CPC does not permit amendments after commencement of trial, unless the Court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before commencement of trial, and the petitioner/respondent failed to show as to show inspite of due diligence, he could not raise such amendments before commencement of trial.

13. The amendments sought are that in line No.11 of paragraph No.3 of the counter, instead of 'impotency of the petitioner', it was mentioned as 'impotency of the respondent' & in para 24-line no.3 from the bottom as 'respondent is not fit for marital life' instead of 'petitioner is not fit for marital life'. This Court

perused the averments in paragraph No.3 of the counter filed by the petitioner herein. The said paragraph is extracted hereunder.

“3. The present petition is liable to be dismissed on the ground of suppression of facts, for raising baseless grounds i.e.498A, Section 3, 4 of Dowry Prohibition Acts, for making false allegations, and misuse of law and order. Divorce petition 13 (1) (ia) (iii) for manifesting cruelty with case number FCOP SR.No.762 of 2022 is submitted at Kukatpally, HON’BLE Family court on 26.07.2022 by the Respondent against the petitioner is supplemental with other grounds additional to the earlier Petition with F.C.O.P/279/2021, Filing Date: 10.03.2021, under Section 12 (1) (a), Filed in the Family Court at City Civil Court, Secunderabad, Telangana which is filed by the Respondent against the Petitioner. The petition under Section 12 (1) (a) is submitted, to declare the marriage as non-consummation and nullity. The said marriage as nullity is on the ground of impotency of the respondent.”

14. A perusal of the averments in the aforementioned paragraph goes to show that in the said paragraph, the petitioner

is referring to the previous FCOP No.279 of 2021 on the file of the Family Court, City Civil Court, Secunderabad filed by him against the respondent/wife under Section 12 (1) (a) of the Hindu Marriage Act, 1955, seeking to declare the marriage as nullity on the ground of impotency of respondent/wife, who is 'respondent in that FCOP'. Even on facts, admittedly, the FCOP was filed by the petitioner herein against the respondent herein, seeking to declare the marriage between them as void on the ground of non-consummation of the marriage because of impotency of the respondent therein/wife. It appears the word 'therein' is inadvertently missing after the word 'respondent' mentioned in last line No.11 of the said paragraph No.3 of the counter. In view of non-mentioning of the word 'therein' before the said word 'respondent', there is some ambiguity. Therefore, considering the totality of the circumstances and understanding from context in which the averments in the said paragraph are narrated, this Court is of the opinion that the word 'respondent' mentioned in last line of paragraph No.3 of the counter filed by the petitioner herein, in the HMOP, refers to the 'respondent in FCOP No.279 of 2021 filed by the petitioner herein on the file of the Family Court, City Civil Court, Secunderabad', and the same shall be construed accordingly. Further, in the aforesaid context, the mention

made in line No.3 from the bottom of paragraph No.24 that 'respondent is not fit for marital life', when understood according to the context and when the counter is read, as a whole, appears to be an inadvertent one and a typographical mistake. Accordingly, there is no hindrance in allowing the said amendment sought therefor.

15. As regards the other amendments viz. instead of 'petitioner grandmother got expired. Petitioner's father', it was mentioned as 'Respondent grandmother got expired. Respondent's father' in para 13-line no.7 from bottom, and instead of 'The respondent and his parents never', it was mentioned as 'The petitioner and his parents never' in line no.4 of para no.20, the same is not vehemently opposed by the respondent. The said mistakes, as verified from the facts of the case and understood in the context of the case, appear to be typographical mistakes. Accordingly, there is no hindrance in allowing the proposed amendments sought.

16. In the case on hand, the trial Court, having held that whether the amendment sought by the petitioner is admission or not, can be determined in enquiry in main petition after going through the evidence of both the parties, dismissed the

amendment petition on the ground that if the petition is allowed, it would cause prejudice to the claim of the respondent/wife. It is settled law and as held by the Hon'ble Apex Court in *J.Samuel & others v. Gattu Mahesh & others* (2 supra), relied on, by the learned counsel for the respondent, the primary aim of the Court is to try the case on its merits and ensure that the rule of justice prevails, and for this, the need is for the true facts of the case to be placed before the Court so that the Court has access to all the relevant information in coming to its decision, and at times, it is required to permit parties to amend their complaints. It is further settled that the Court's discretion to grant permission for a party to amend his pleading lies on two conditions, *firstly*, no injustice must be done to the other side and *secondly*, the amendment must be necessary for the purpose of determining the real question in controversy between the parties.

17. Therefore, in order to try the case on hand on its merits and ensure that the rule of justice prevails, there is a need to place the true facts of the case before the Court so that the Court has access to all the relevant information in coming to its decision. No injustice will be done to the respondent because the proposed amendments seek to bring before the Court the correct factual situation, and in the considered opinion of this Court, the same

are required for the purpose of determining the real question in controversy between the parties. The Courts should not adopt a hypertechnical approach. These aspects have not been considered by the trial Court in right perspective.

18. Accordingly, the Civil Revision Petition is allowed. The impugned order dated 08.05.2026 passed in I.A.No.309 of 2026 in H.M.O.P. No.181 of 2021 on the file of the Civil Judge (Senior Division), Narsapur is set aside. Consequently, I.A.No.309 of 2026 in H.M.O.P. No.181 of 2021 stands allowed. There shall be no order as to costs of the C.R.P.

As a sequel, pending miscellaneous petitions, if any, in the C.R.P. shall stand closed.

JUSTICE K. SREENIVASA REDDY

25.8.2026
DRK

Whether the order is :

Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No

THE HON'BLE SRI JUSTICE K.SREENIVASA REDDY

CIVIL REVISION PETITION No. 1791 OF 2026

25 .8.2026
DRK