

APHC010310512025



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

[3332]

FRIDAY, THE EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT: THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 1455/2025

ALONG WITH

CIVIL REVISION PETITION Nos. 1642 & 1705 of 2025

CIVIL REVISION PETITION No. 1455 of 2025

Between:

1. KARRA DEENAMMA, (DIED) (DEFENDANT NO.1)
2. BANDI VAJRAM @ RAJESWARIDEVI, W/O VIVEKANANDA, AGED ABOUT 51 YEARS, HOUSE WIFE, M.I.G - 87, MADHAVA DHARA, VUDA COLONY, VISAKAPATNAM. (D5)

...PETITIONER(S)

AND

1. KARRA SARALA, W/O LATE SASI KUMAR, AGED ABOUT 36 YEARS R/O D.NO. 165, NEAR RAILWAY STATION, BHATTIPROLU, BHATTIPROLU (V AND M) GUNTUR DISTRICT (PLAINTIFF)
2. KARRA SWARNALATHA, W/O LATE MANOJ KUMAR, AGED ABOUT 48 YEARS, RENTS AND CULTIVATION, R/O D.NO.2-165, OPP. RAILWAY STATION, BHATTIPROLU (V AND M) GUNTUR DISTRICT.
3. KARRA RAGHUBABU, S/O LATE MANOJ KUMAR, AGED ABOUT 27 YEARS, R/O D.NO.2-165, OPP RAILWAY STATION, BHATTIPROLU (V AND M) GUNTUR DISTRICT. (D3)

4.KARRA EMMADEEP, S/O LATE MANOJ KUMAR, AGED ABOUT 24 YEARS R/O D.NO.2-165, OPP RAILWAY STATION, BHATTIPROLU (V AND M) GUNTUR 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 Aggrieved by the order and decretal order dated 05-03-2025 passed in I.A. No. 65 of 2023 in O.S. No. 68 of 2011 on the file of the court of the Senior Civil Judge at Repalle, the Petitioner herein files the present Civil Revision Petition in this Honble court for the following among the other

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.68/2011 pending on the file of the court of Senior Civil Judge Repalle, pending disposal of the above Revision Petition in the interest of justice and pass

Counsel for the Petitioner(S):

1.SIVALENKA RAMACHANDRA PRASAD

Counsel for the Respondent(S):

1.C.PANINI SOMAYAJI

CIVIL REVISION PETITION NO: 1642/2025

Between:

1.KARRA DEENAMMA(DIED), (D1)

2.BANDI VAJRAM @ RAJESWARIDEVI, W/O VIVEKANANDA, AGED ABOUT 51 YEARS, HINDU, HOUSE WIFE, M.I.G - 87, MADHAVA DHARA, VUDA COLONY, VISAKAPATNAM. (D5)

...PETITIONER(S)

AND

1. KARRA SARALA, W/O LATE SASI KUMAI, HINDU, AGED ABOUT 36 YEARS. DOOR NO. 165, NEAR RAILWAY STATION, BHATTIPROLU, BHATTIPROLU MANDAL, REPALLE JCJC. (PLAINTIFF)
2. KARRA SWARNALATHA, W/O LATE MANOJ KUMAR, HINDU, AGED ABOUT 48 YEARS, RENTS AND CULTIVATION, RESIDENT OF DOOR NO.2-165. OPPOSITE TO RAILWAY STATION, BHATTIPROLU VILLAGE AND MANDAL, REPALLE JCJC, GUNTUR DISTRICT. (D2).
3. KARRA RAGHUBABU, S/O LATE MANOJ KUMAR, HINDU, AGED ABOUT 27 YEARS, RESIDENT OF DOOR NO.2-165. OPPOSITE TO RAILWAY STATION, BHATTIPROLU VILLAGE AND MANDAL, REPALLE JCJC, GUNTUR DISTRICT (D3).
4. KARRA EMMADEEP, IS/O LATE MANOJ KUMAR, HINDU, AGED ABOUT 24 YEARS, RESIDENT OF DOOR NO.2-165. OPPOSITE TO RAILWAY STATION, BHATTIPROLU VILLAGE AND MANDAL, REPALLE JCJC. (D4)

...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 please to allow the Revision by Setting aside the impugned order dated 05-03-2025 passed in I.A. No. 64 of 2023 in O.S. No. 68 of 2011 on the file of the Senior Civil Judge, Repalle in the interest of justice

Counsel for the Petitioner(S):

1. SIVALENKA RAMACHANDRA PRASAD

Counsel for the Respondent(S):

1. C. PANINI SOMAYAJI

CIVIL REVISION PETITION NO: 1705/2025

Between:

- 1.KARRA DEENAMMA (DIED), (DIED) (D1)
- 2.BANDI VAJRAM @ RAJESWARIDEVI, WO VIVEKANANDA, AGED ABOUT 51 YEARS, HINDU, HOUSE WIFE, M.I.G - 87, MADHAVA DHARA, VUDA COLONY, VISAKAPATNAM.

...PETITIONER(S)

AND

- 1.KARRA SARALA, , WO LATE SASI KUMAI, HINDU, AGED ABOUT 36 YEARS. DOOR NO. 165, NEAR RAILWAY STATION, BHATTIPROLU, BHATTIPROLU MANDAL, REPALLE JCJC. (PLAINTIFF)
- 2.KARRA SWARNALATHA, W/O LATE MANOJ KUMAR, HINDU, AGED ABOUT 48 YEARS, RENTS AND CULTIVATION, RESIDENT OF DOOR NO 2-165. OPPOSITE TO RAILWAY STATION, BHATTIPROLU VILLAGE AND MANDAL, REPALLE JCJC, GUNTUR DISTRICT. (D2)
- 3.KARRA RAGHUBABU, S/O LATE MANOJ KUMAR, HINDU, AGED ABOUT 27 YEARS, RESIDENT OF DOOR NO2-165. OPPOSITE TO RAILWAY STATION, BHATTIPROLU VILLAGE AND MANDAL, REPALLE JCJC, GUNTUR DISTRICT
- 4.KARRA EMMADEEP, LS/O LATE MANOJ KUMAR, HINDU, AGED ABOUT 24 YEARS, RESIDENT OF DOOR NO 2-165. OPPOSITE TO RAILWAY STATION, BHATTIPROLU VILLAGE AND MANDAL, REPALLE JCJC. (D4)

...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 order in I.A. No. 90 of 2024 in O.S. No. 68 of 2011 on the file of the Honble Sr. Civil Judge at Repally

Counsel for the Petitioner(S):

1. SIVALENKA RAMACHANDRA PRASAD

Counsel for the Respondent(S):

1. C. PANINI SOMAYAJI

The Court made the following:

RESERVED ON 28.04.2026

PRONOUNCED ON 08.05.2026

UPLOADED ON 08.05.2026

COMMON ORDER

These Civil Revision Petitions are filed questioning the legality and correctness of the order dated 05.03.2025 passed in I.A.Nos.65, 64 of 2023 & I.A.No.90 of 2024 in O.S.No.68 of 2011 by the learned Civil Judge (Senior Division), Repalle.

2. Inasmuch as these Civil Revision Petitions arise out of the orders passed in interlocutory petitions in a single suit, they were heard together and are being disposed of by this common order.

3. The Civil Revision Petitioner is defendant No.5, the respondent no.1 is the plaintiff and respondent nos. 2 to 4 are co-defendant nos.2 to 4 in O.S.No.68 of 2011. Defendant No.1 in the suit died.

4. The facts that led to filing of these Civil Revision Petition nos.1455 & 1642 of 2025, in brief, are that respondent no.1 filed the suit vide O.S.No.68 of 2011 for partition. In the said suit, the defendant no.5 filed petitions vide I.A.No.65 of 2023 under Order-13, Rule-1 CPC to direct the plaintiff to produce the original Will dated 25.12.1995 executed by father of defendant no.5 and I.A.No.64 of 2023 under Order-18, Rule-17 CPC to recall P.W.1 for further cross-examination. The respondents resisted the claim made in the petitions by filing counters. The learned trial Judge upon hearing the counsel

and upon perusing the material available on record, dismissed the petitions. Aggrieved thereby, defendant no.5 filed the Civil Revision Petitions.

5. The facts that led to filing of the Civil Revision Petition No.1705 of 2025, in brief, are that the plaintiff filed petition vide I.A.No.90 of 2024 praying the Court to club the suit vide O.S.No.114 of 2016 along with the suit vide O.S.No.68 of 2011. The defendant no.5/ Civil Revision Petitioner, contested the petition by filing counter contending that the causes of action, the plaint schedule properties and the claims of both the suits are entirely distinct and different and hence they cannot be clubbed together. The learned trial Judge, upon considering the material available on record and the submissions made by learned counsel for the parties, allowed the petition. Aggrieved thereby, the defendant no.5 filed this Civil Revision Petition.

6. Heard Sri Sivalanka Rama Chandra Prasad, learned counsel for the Civil Revision Petitioner/ defendant no.5, and Sri Panini Somayaji, learned counsel for respondent no.1/plaintiff.

7. Sri Sivalanka Rama Chandra Prasad, learned counsel for defendant no.5, while reiterating the contents of the affidavits filed in support of the petitions filed before the trial Court vide I.A.Nos.64 & 65 of 2023 would contend that the trial Court erred in observing that defendant no.1 did not

mention in her written statement about execution of Will dated 25.12.1995 by her husband, whereas, in fact the defendant no.1 in her additional written statement clearly mentioned about execution of Will dated 25.12.1995 in her favour by her husband, however, the trial Court completely ignored the contents of the additional written statement. He would further contend that the observation of the trial Court regarding non-mention of the Will in the written statement of defendant no.1 is perverse and runs contrary to the contents of the additional written statement and therefore, the conclusion reached by the learned trial Judge in dismissing the petition is contrary to the material available on record and shows the gross non-application of judicial mind and hence the order passed in I.A.No.65 of 2023 in dismissing the petition has to be set aside.

He would further contend that the learned trial Judge dismissed the petition vide I.A.No.64 of 2023 filed for recall of P.W.1 by reproducing the order passed in I.A.No.65 of 2023, ignoring the fact that P.W.1 is sought to be recalled for eliciting material evidence with regard to the existence and suppression of original Will dated 25.12.1995. He would further contend that the trial Court completely oblivious of the mandate contained in Order-18, Rule-17 of Code of Civil Procedure that a witness can be recalled at any stage

of the suit for the purpose of clarification of further evidence. He would further contend that the trial Court upon misconception that recall of P.W.1 is sought only to mark Photo copy of the Will dated 25.12.1995 erroneously dismissed the petition resulting in miscarriage of justice. He would further contend that denying the opportunity to the defendant no.5 to further cross-examine P.W.1, who suppressed the original Will, to get clarification in that regard would cause grave prejudice and violates her fundamental right of effectively defending her case. He would further contend that getting clarification would not amend to filling up gaps or omission or lacunae, but for eliciting a clarification, however, the trial Court upon misconception of facts erroneously dismissed the petition filed for recalling P.W.1 and hence the said order has to be set aside.

He would further contend that the issues involved, the evidence to be let in, the schedule of properties and the claims made by the parties in O.S.No.114 of 2006 and O.S.No.68 of 2011 are entirely different and distinct and hence clubbing of suits of such a nature is impermissible, since would create confusion, however the learned trial Judge erroneously ordered clubbing of the suits and hence the order impugned in CRP No.1705 of 2025 is liable to be set aside.

Accordingly, the learned counsel for Civil Revision Petitions prayed to allow the Civil Revision Petitions by setting aside the orders impugned therein.

8. On the other hand, Sri C.Panini Somayaji, learned counsel for respondent no.1/ plaintiff would contend that there is no reference of the Will dated 25.12.1995 said to be have been executed by her father-in-law in favour of her mother-in-law/defendant no.1 in her written statement, however in additional written statement she came up with a cooked up story as if there was Will executed by her husband in her favour/defendant no.1 and to cover up the false story, another false story was woven as if though the said Will was entrusted to her previous counsel, he failed to mention the same in the written statement and this clearly shows the falsity of existence of the alleged Will dated 25.12.1995 and the learned trial Judge upon meticulous analysis of the facts and circumstances had rightly dismissed the petitions vide I.A.Nos.64 & 65 of 2023. He would further contend that the letter addressed by the counsel to defendant no.1 nowhere refers to existence of the Will except stating that 'all the documents pertaining to the properties' and therefore, the contents of the letter even by a slightest inking suggest existence of Will and handing it over to husband of the plaintiff, and therefore, the learned trial Judge had rightly dismissed the petitions and the

well-considered orders do not require interference of this Court. Accordingly, prayed to dismiss the Civil Revision Petition Nos.1455 & 1642 of 2025.

He would further contend that the subject matter of the suits vide O.S.Nos.114 of 2016 and 68 of 2011 is interlinked and the evidence to be adduced and the documents to be marked as common and hence to avoid repetition of evidence and conflicting judgments, the learned trial Judge upon perusing the material available on record rightly clubbed both the suits, observing that though the schedule of properties are different, but the claims made by the parties is one and the same. He would further contend that there is neither impropriety nor procedural irregularity in clubbing the suit and the said well-considered order does not require interference of this Court. Accordingly, prayed to dismiss CRP No.1705 of 2025.

9. Perused the material available on record and considered the submissions made by learned counsel for the parties.

10. The respondent no.1/plaintiff filed the suit vide O.S.No.68 of 2011 arraigning wife, wife and children of predeceased son, and daughter of Karre Immanuel as defendants 1 to 5 for partition of the properties of the said Karre Immanuel acquired by him from out of joint family properties and the income derived by husbands of plaintiff and defendant no.2. It is her further

contention in the plaint that her husband during her lifetime executed a Will dated 26.01.2006 in a sound and disposing state of mind and consequent to his death, the said Will came into force and the plaintiff has been in possession and enjoyment of 1/4th share of the joint family properties. It is her further case in the plaint that defendant nos. 2 to 4 (wife and children of predeceased son of Immanuel and defendant no.1) filed suit vide O.S.No.158 of 2001 for partition in respect of the very same subject properties on the file of the Court of the learned III Additional District Judge, Guntur against husband of plaintiff and defendant nos.1 & 5, wherein the plaintiff was added as defendant no.4 after death of her husband and in the said suit defendant no.5 claimed share in the property, being daughter of Immanuel and ultimately the said suit was dismissed for non-prosecution on 30.03.2009. It is further mentioned in the said plaint that defendant no.1 filed a suit vide O.S.No.38 of 2007 on the file of the Court of the learned Junior Civil Judge, Avanigadda against the plaintiff for partition of the property purchased by Karra Sasi kumar (husband of plaintiff and son of defendant no.1).

11. The record discloses that the suit vide O.S.No.38 of 2007 was transferred from the file of Junior Civil Judge, Avanigadda, Krishna District to the file of the Court of the learned Senior Civil Judge, Repalle to be tried along

with O.S.No.68 of 2011, as per orders of this Court passed in TCMP No.323 of 2015, and consequent to transfer the suit vide O.S.No.38 of 2007 was renumbered as O.S.No.114 of 2016.

12. The defendant no.1 while she was alive filed written statement in the suit vide O.S.No.68 of 2011 contending that the Will dated 26.01.2006 propounded by the plaintiff said to have been executed by son of defendant no.1 in favour of plaintiff is fabricated and that the properties were purchased out of the income of the joint family.

13. Admittedly, there is no reference of the Will dated 25.12.1995 said to have been executed by husband of defendant no.1 in her favour in the original written statement.

14. However, in the additional written statement filed by defendant no.1 it was mentioned that her husband executed Will dated 25.12.1995 in her favour bequeathing all his properties. It is further mentioned therein that though photocopy of the said Will was given to her counsel that filed the written statement, he, by mistake, did not mention the existence of the Will in the written statement.

15. The letter dated 09.06.2007 addressed by counsel of defendant no.1, who appeared on her behalf in O.S.No.158 of 2001 on the file of the

Court of the learned III Additional District Judge, Guntur addressed to the defendant no.1 states that all the documents pertaining to the properties were taken away by son of defendant no.1 (husband of plaintiff) about 6 to 10 months prior to his death.

16. Admittedly, the said letter does not refer to Will dated 25.12.1995 said to have been executed by husband of defendant no.1 in her favour.

17. According to respondent no.1/plaintiff, during his lifetime her husband maintained cordial relationship with his mother and all the documents which are in the custody of her husband were handed over to his mother and that she has no knowledge about the Will dated 25.12.1995.

18. From the material available on record and the contentions advanced by the learned counsel for the parties before this Court as well as trial Court, it is evident that the said Will was not filed in O.S.No.158 of 2001.

19. It is curious enough to note that in the written statement filed by defendant no.1 in the suit in O.S.No.68 of 2011 there was no reference even about the Will dated 25.12.1995 said to have been executed by her husband in her favour. However, the same came to be mentioned in the additional written statement along with clarification that though photocopy of the said Will was given to her previous counsel, the same was not mentioned in the

written statement by oversight or mistake. So also in the written statement filed by defendant no.5 there was no mention of Will dated 25.12.1995 but the same was referred to in her additional written statement. Both the additional written statements of defendant nos.1 & 5 were filed on 16.08.2017.

20. The above would indicate that the Will dated 25.12.1995 was not filed in the suit in O.S.No.158 of 2001 filed by defendant no.2 (daughter-in-law) of defendant no.1 for partition though production of the Will would be beneficial to defendant no.1 and that the letter addressed by her counsel to defendant no.1 did not bear any reference regarding the Will except stating 'all the documents pertaining to the property' and more particularly there was no reference of Will in the written statements of defendant nos.1 & 5, but for in their additional written statements. Therefore, as rightly observed by the learned trial Judge, the theory of execution of Will by husband of defendant no.1 in favour of defendant no.1 seems to be an afterthought innovation only with an intention to mark the photo copy of the Will. In view of the suspicious circumstances referred to supra, the learned trial Judge had rightly dismissed the petition vide I.A.No.63 of 2023 filed under Order-XIII, Rule-1 CPC. The

said order does not require interference of this Court. Accordingly, CRP No.1455 of 2025 deserves dismissal.

21. The petition vide I.A.No.64 of 2023 was filed to recall P.W.1 to elicit the factum of having custody of original of Will dated 25.12.1995. The said petition was dismissed offering reasons akin to the reasons given for dismissing I.A.No.63 of 2023.

22. Order 18 Rule 17 of the Code of Civil Procedure (CPC) empowers a court to recall a witness at any stage of a suit to clarify evidence, rather than to allow parties to fill gaps or re-examine witnesses. It is a discretionary, exceptional power used to remove ambiguities or clarify issues, not for routine re-examination.

23. Here, the endeavour of defendant no.5 is to elicit from P.W.1 with regard to possession of original Will dated 25.12.1995 with her. Further, according to the learned counsel for defendant no.5, the purpose of recall is only to confront her with photocopy of the Will dated 25.12.1995 and elicit from her the existence and suppression of the original Will. Since the petition filed under Order XIII, Rule-1 CPC was dismissed in view of the suspicious circumstances, recalling P.W.1 regarding existence and suppression of the document which is held to be suspicious, would become redundant.

The learned trial Judge is right in dismissing the petition filed for recall of P.W.1. Therefore, the Civil Revision Petition vide CRP No.1642 of 2025 is also to be dismissed.

24. Now coming to CRP No.1705 of 2023, both the suits were filed for partition of the properties. O.S.No.68 of 2011 was filed by respondent no.1/plaintiff for partition of the joint family properties of Karra Immanuel contending that he inherited the joint family properties and his two sons used to assist him in running Ayurvedic Vaidhyasala and with the income derived by them from agricultural operations and Ayurvedic Vaidhyasala purchased the plaint schedule properties and she being wife of predeceased son is entitled for 1/4th share therein. In the said suit the defendant no.1 filed additional written statement contending that her husband executed a Will dated 25.12.1995 bequeathing all the properties in her favour. Whereas O.S.No.114 of 2016 is filed by defendant no.1 for partition of the properties stand in the name of her son, wherein the first respondent, who was first defendant in the said suit, took up a defence that her husband executed a Will dated 26.01.2006 bequeathing the plaint schedule properties in O.S.No.114 of 2016 in her favour.

25. Admittedly, the subject matter of both the suits is different and distinct. One suit is filed for partition of the joint family properties, whereas another suit is filed by mother for partition of the properties stand in the name of son.

26. The defendant no.1 of the respective suits is relying on the Will executed by their husband in support of their claim.

27. The plaint schedule properties are different and distinct and the issues involved in the suits are also different, except that both the suits are filed for partition.

28. Therefore, consolidation of the suits would lead to unnecessary confusion and it would be justified if both the suits are tried simultaneously rather than jointly. Therefore, the orders impugned in CRP No.1705 of 2025 are liable to be set aside.

29. In the result, CRP No.1455 of 2025 is dismissed confirming the order dated 05.03.2025 passed in I.A.No.65 of 2023 in O.S.No.68 of 2011. There shall be no order as to costs.

30. In the result, CRP No.1642 of 2025 is dismissed. There shall be no order as to costs.

31. In the result, CRP No.1705 of 2025 is allowed, setting aside the order dated 05.03.2025 passed in I.A.No.90 of 2024 in O.S.No.68 of 2011. Both the suits shall be tried simultaneously rather than by clubbing together. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

8TH May, 2026.

JUSTICE RAVI CHEEMALAPATI
RR