

APHC010055952024



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

[3332]

PRESENT: THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 242/2024

Along with CIVIL REVISION PETITION NO.361/2024

CIVIL REVISION PETITION NO: 242/2024

Between:

- 1.THE ANCIENT PATTERN PENTECOSTAL CHURCH (TAPPC SOCIETY), REPRESENTED BY ITS PRESIDENT, SMT. KILARI ESTHER RANI, W/O. LATE DAVID RAJU, AGED ABOUT 52 YEARS, R/O. HOUSE NO. 6, DHALIA 6, NECTAR GARDENS, MADHAPUR, RANGA REDDY DISTRICT, TELANGANA.
- 2.GOSPEL TO THE UNREACHED MILLION SOCIETY (GUM SOCIETY),, REPRESENTED BY ITS PRESIDENT, SMT. KILARI ESTHER RANI, W/O. LATE DAVID RAJU, AGED ABOUT 52 YEARS, R/O. HOUSE NO. 6, DHALIA 6, NECTAR GARDENS, MADHAPUR, RANGA REDDY DISTRICT, TELANGANA.

...PETITIONER(S)

AND

- 1.KILARI ANAND PAUL, S/O. BARNABAS, CHRISTIAN, AGED ABOUT 58 YEARS, R/O. C/O. BARNABAS, D. NO. 39-3-104/1-3, SECTOR - 9, MURALI NAGAR, VISAKHAPATNAM, ANDHRA PRADESH.
- 2.REDDY YESUPADAM, S/O. RAMU NAIDU, CHRISTIAN, AGED ABOUT 61 YEARS, R/O. C/O. BARNABAS, D. NO. 39-3-104/1-3, SECTOR - 9, MURALI NAGAR, VISAKHAPATNAM, ANDHRA PRADESH.
- 3.KILARI BARNABAS, S/O. SEETHARAMA SWAMY, CHRISTIAN, AGED ABOUT 86 YEARS, R/O. D. NO. 39-3-104/1-3, SECTOR - 9, MURALI NAGAR, VISAKHAPATNAM, ANDHRA PRADESH.

4.THE STATE OF ANDHRA PRADESH, REP. BY ITS DISTRICT COLLECTOR, COLLECTORS OFFICE, MAHARANIPETA, VISAKHAPATNAM, ANDHRA PRADESH.

5.THE REGISTRAR OF SOCIETIES, DISTRICT REGISTRARS OFFICE, I TOWN, VISAKHAPATNAM, ANDHRA PRADESH.

6.STATE BANK OF INDIA, MAIN BRANCH, REP. BY ITS CHIEF MANAGER, MADHAPUR BRANCH, HYDERABAD, TELANGANA.

7.ORIENTAL BANK OF COMMERCE, REP. BY ITS BRANCH MANAGER, MADHAPUR BRANCH, HYDERABAD, TELANGANA.

...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 toallow the C.R.P. by setting aside the Order and Decree dated 14.12.2023 passed in O.P. No. 607/2017 pursuant to the Order and Decree dated 14.12.2023 in I.A. No. 612/2017 in O.P. No. 607/2017 on the file of the Honble IV Addl. District Judge, Visakhapamam and consequently restore the Original Petition in O.P. No. 607/2017 on the file of the Honble IV Addl. District Judge, Visakhapamam and pass such

IA NO: 1 OF 2024

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 restrain Respondents No. 1 to 3 from alienation the properties of the Petitioners' societies and pass

IA NO: 2 OF 2024

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 condone the delay of 31 days in filing IA.no. of 2024 in Review I.A.No. of 2024 in CRP.No. 242 of 2024 in the interests of justice and to pass

IA NO: 3 OF 2024

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 review the common order Dt. 18-06-2024 passed in C.R.P.No. 242/2024 and C.R.P.No.361/2024 and pass

IA NO: 4 OF 2024

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 dispense with the filing of certified copy of the common order in C.R.P.Nos. 242/2024 and 361/2024 dt. 18-06-2024 pending disposal of the above review petition and pass

IA NO: 5 OF 2024

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 suspend the operation of the common order in C.R.P.Nos.242 and 361/2024 dt.18-06-2024 pending disposal of the above review petition and pass

IA NO: 6 OF 2024

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 pleased to: Set aside the order dated 05-09-2024 by which the Petitioner's permission to appear as party-in-person was revoked, and allow the Petitioner to continue prosecuting the case in person. b. Allow the Petitioner to make submissions in the matter and exercise his fundamental right to present his claims and contentions through arguments. Consider the case sympathetically on its merits, keeping in mind the Petitioner's sincere efforts and respectful conduct in judicial proceedings. d. 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 fix an early date for hearing the above C.R.P. No. 242 of 2024, and pass

Counsel for the Petitioner(S):

1. SAI SANJAY SURANENI

Counsel for the Respondent(S):

1. PARTY IN PERSON
2. TURAGA SAI SURYA

3.G L NARASIMHA RAO

CIVIL REVISION PETITION NO: 361/2024

Between:

- 1.THE ANCIENT PATTERN PENTECOSTAL CHURCH(TAPPC SOCIETY), REPRESENTED BY ITS PRESIDENT, SMT. KILARI ESTHER RANI, W/O. LATE DAVID RAJU, AGED ABOUT 52 YEARS, R/O. HOUSE NO. 6, DHALIA 6, NECTAR GARDENS, MADHAPUR, RANGA REDDY DISTRICT, TELANGANA
- 2.GOSPEL TO THE UNREACHED MILLION SOCIETY (GUM SOCIETY),, REPRESENTED BY ITS PRESIDENT, SMT. KILARI ESTHER RANI, W/O. LATE DAVID RAJU, AGED ABOUT 52 YEARS, R/O. HOUSE NO. 6, DHALIA 6, NECTAR GARDENS, MADHAPUR, RANGA REDDY DISTRICT, TELANGANA.

...PETITIONER(S)

AND

- 1.KILARI ANAND PAUL, S/O. BARNABAS, CHRISTIAN, AGED ABOUT 58 YEARS, R/O. C/O. BARNABAS, D. NO. 39-3-104/1-3, SECTOR - 9, MURALI NAGAR, VISAKHAPATNAM, ANDHRA PRADESH.
- 2.REDDY YESUPADAM, S/O. RAMU NAIDU, CHRISTIAN, AGED ABOUT 61 YEARS, R/O. C/O. BARNABAS, D. NO. 39-3-104/1-3, SECTOR - 9, MURALI NAGAR, VISAKHAPATNAM, ANDHRA PRADESH.
- 3.KILARI BARNABAS, S/O. SEETHARAMA SWAMY, CHRISTIAN, AGED ABOUT 86 YEARS, R/O. D. NO. 39-3-104/1-3, SECTOR - 9, MURALI NAGAR, VISAKHAPATNAM, ANDHRA PRADESH.
- 4.THE STATE OF ANDHRA PRADESH, REP. BY ITS DISTRICT COLLECTOR, COLLECTORS OFFICE, MAHARANIPETA, VISAKHAPATNAM, ANDHRA PRADESH.
- 5.THE REGISTRAR OF SOCIETIES, DISTRICT REGISTRARS OFFICE, ITOWN, VISAKHAPATNAM, ANDHRA PRADESH.
- 6.STATE BANK OF INDIA, MAIN BRANCH, REP. BY ITS CHIEF MANAGER, MADHAPUR BRANCH, HYDERABAD, TELANGANA.

7. ORIENTAL BANK OF COMMERCE, REP. BY ITS BRANCH
MANAGER, MADHAPUR BRANCH, HYDERABAD, TELANGANA

...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 allow the C.R.P. by setting aside the Order and Decree dated 14.12.2023 in I.A. No. 612/2023 in O.P. No. 607/2017 on the file of the Honble IV Addl. District Judge, Visakhapatnam and consequently restore the Original Petition in O.P. No. 607/2017 on the file of the Honble IV Addl. District Judge, Visakhapatnam and pass such other Order or Orders as the Honble Court may deem fit and proper in the interests of justice.

IA NO: 1 OF 2024

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 restrain Respondents No. 1 to 3 from alienating the properties of the Petitioners' societies and pass any other order or orders as may deem fit and proper in the interest of justice.

IA NO: 2 OF 2024

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 condone the delay of [32] days in filing Review IA of 2024 in C.R.P.No.361 of 2024 in the interests of justice and to pass

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated to review the common order Dt.18-06-2024 passed in C.R.P.No.361/2024 and C.R.P.No.242/2024 and pass

IA NO: 4 OF 2024

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 dispense with the filing of certified copy of the common order in C.R.P.No.361 and 242/2024 dt. 18-06-2024 pending disposal of the above review petition and pass

IA NO: 5 OF 2024

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 suspend the operation of the common order in C.R.P.No.361and 242/2024 dt. 18-06-2024 pending disposal of the above review petition and pass

IA NO: 6 OF 2024

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 set aside the order dated 05-09-2024 by which the petitioners permission to appear as Party in person was revoked, and allow the Petitioner to continue prosecuting the case in person. B. Allow the Petitioner to make submissions in the matter and excise his fundamental right to present his claims and contentions through arguments C. Consider the Case sympathetically on its merits keeping in mind the Petitioners sincere efforts and respectful conduct in judicial proceedings 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 fix an early date for hearing the above C.R.P. No. 361 of 2024, and pass

Counsel for the Petitioner(S):

- 1.SAI SANJAY SURANENI

Counsel for the Respondent(S):

- 1.PARTY IN PERSON
- 2.TURAGA SAI SURYA
- 3.G L NARASIMHA RAO

RESERVED ON 02.02.2026

PRONOUNCED ON 08.04.2026

UPLOADED ON 08.04.2026

COMMON ORDER

The Civil Revision Petition vide CRP No.361 of 2024 is filed questioning the legality and correctness of the orders dated 14.12.2023 passed in I.A.No.612 of 2023 in O.P.No.607 of 2017, whereas Civil Revision Petition vide CRP No.242 of 2024 is filed questioning the consequential order passed dismissing the O.P.No.627 of 2017 in view of dismissal order passed in I.A.No.612 of 2023.

2. Inasmuch as both the Civil Revision Petitions are interrelated relates to the said O.P.No.607 of 2017 and the result of the one will have bearing on the other, both of them are heard together and are being disposed of by this common order.

3. The facts that led to filing of these Civil Revision Petitions, in brief, are that:

(i) The Civil Revision Petitioners filed O.P.No.607 of 2017 on the file of the Court of the learned District Judge, Visakhapatnam against the respondents herein and others under Section 23 of the A.P.Societies Registration Act, 2001.

(ii) The respondent nos.1 to 3 in the said petition filed I.A.No.612 of 2023 under Order-II, Rule-2, read with Section 151 of the Code of Civil Procedure (for short, 'CPC') to dismiss the O.P being barred under Order-II,

Rule-2 CPC, since the husband of the petitioner in O.P. earlier filed O.P.Nos.1053 & 1124 of 2007 and 786 of 2008 before the same Court on the same cause of action, which were withdrawn later without seeking leave of the Court.

(iii) The petitioner in the main O.P. filed counter contending that since the earlier petitions were not decided on merits, the provisions of Order-II, Rule-2 and Order-II, Rule-11 CPC, which speak about *res judicata*, cannot be made applicable to the facts of the case. It is further stated in the counter that even otherwise, *res judicata* is not a ground for rejection of the petition under Order-VII, Rule-11 CPC. It is further stated in the counter that the present O.P. is filed altogether on the different cause of action and can be maintained since filed on an independent cause of action.

(iv) The trial Court, upon perusal of the facts of the case and considering the submissions made by learned counsel for the parties, having observed that the provisions of Order-II, Rule-2 and Order-XXIII, Rule-1(4) of CPC are not applicable, however since the earlier Ops were not pressed subsequent to filing of the present O.P.No.607 of 2017, bar under Order-IX, Rule-9 CPC gets attracted, as per which the petitioner cannot maintain the present O.P.No.607 of 2017 and accordingly, I.A.No.612 of 2023 was allowed and O.P.No.607 of 2017 was dismissed.

(v) Questioning the said orders, these Civil Revision Petitions were filed by the petitioners in O.P.No.607 of 2017.

4. Heard Sri Sai Sanjay Suraneni, learned counsel for the petitioner, and Dr.K.A.Paul, party-in-person in both the CRPs.

5. Sri Sai Sanjay Suraneni, learned counsel for petitioner, while reiterating the contents of the counter filed before trial Court and the grounds of Civil Revision Petitions, would contend that the learned trial Judge erred in applying the provisions of CPC to the petition filed under Section 23 of the Andhra Pradesh Societies Registration Act, 2001 and further the learned trial Judge erred in rejecting the O.P. by invoking the power under Order -9, Rule-9 CPC, 1908, even though there is a specific provision under Order-7, Rule-11 CPC. He would further contend that the learned trial Judge erred in dismissing the O.P.at the threshold instead adjudicating the matter on merits. He would further contend that causes of action for filing the subject O.P. and the earlier O.Ps.are entirely different and distinct. He would further contend that the main relief sought in the subject O.P.that the respondent No.1 and his henchmen obtained renewal from respondent no.5 on 18.02.2017 for both the societies by incorporating their names as office bearers by playing fraud is entirely different and not covered by the earlier O.P.Nos.1053, 1124 of 2007 and O.P.No.786 of 2008, however the learned trial Judge erred in allowing the

petition invoking Order-9, Rule-9 CPC. Accordingly, prayed to allow both the Civil Revision petitions.

6. On the other hand, Dr.K.A.Paul, party-in-person, in both the Civil Revision Petitions, contended that the subject Original Petition is founded on the same cause of action on which the earlier Original Petitions were filed and since the earlier Original Petitions were withdrawn, the subject Original Petition is hit by Order-IX, Rule-9 CPC and the learned trial Judge upon meticulous analysis of the facts and circumstances of the case in proper perspective passed the impugned orders and consequently dismissed the subject Original Petition and the said well considered orders do not require any interference of this Court. Accordingly, prayed to dismiss the Civil Revision Petitions being meritless.

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

8. O.P.No.607 of 2017 is filed by the revision petitioners against the respondents and others seeking the following reliefs:

- (a) for conducting detailed enquiry Under Section 23 of the Act, 2001 and handover the properties and operation of bank accounts of both the petitioners societies to the office bearers who are deserving to manage them by considering the events took place after filing O.Ps. 1053 of 2007, 1124 of 2007 for GUM Society and O.P.No.786 of 2008 for TAPP Society;

- (b) for a declaration that the 1st respondent and his henchmen fraudulently obtained certified copies of the renewals from 5th respondent on 18.02.2017 for GUM society and on 17.03.2017 for TAPP society by incorporating the names of 1st respondent and his office bearers by playing fraud;
- (c) for consequential relief of injunction restraining the respondents 1 to 3 and their henchmen from using the aforesaid certified copies obtained from the 5th respondent before any public officers as well as banks i.e. respondents 5 to 7 to avoid unwarranted nuisance.
- (d) for costs of this petition and
- (e) for such other relief/reliefs which the honourable Court deems fit and proper under the circumstances of the case.

9. The relevant provisions of the Code of Civil Procedure that germane for the present purpose are extracted hereunder:

ORDER-II, Rule -2 CPC states that suit to include the whole claim, which envisages that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

Order-XXIII, Rule-1 CPC deals with Withdrawal of suit or abandonment of part of claim.

(1) At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim:

Provided that where the plaintiff is a minor or other person to whom the provisions contained in rules 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the Court.

(2) An application for leave under the proviso to sub-rule (1) shall be accompanied by an affidavit of the next friend and also, if the minor or such other person is represented by a pleader, by a certificate of

the pleader to the effect that the abandonment proposed is, in his opinion, for the benefit of the minor or such other person.

(3) Where the Court is satisfied,—

- (a) that a suit must fail by reason of some formal defect, or
- (b) that there are sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject matter of suit or part of a claim, It may, on such terms as it thinks fit grant the plaintiff permission to withdraw from such suit or such part of the claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of the claim.
- (4) Where the plaintiff—
 - (a) abandons any suit or part of claim under sub-rule (1), or
 - (b) withdraws from a suit or part of a claim without the permission referred to in sub-rule (3), he shall be liable for such costs as the Court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.
- (5) Nothing in this rule shall be deemed to authorise the Court to permit one of several plaintiffs to abandon a suit or part of a claim under sub-rule (1), or to withdraw, under sub-rule (3), any suit or part of a claim, without the consent of the other plaintiff.

10. These CPC provisions differ based on whether they concern the omission of claims (Or. II, R. 2), voluntary withdrawal of a suit (Order XXIII, R. 1), or dismissal for non-appearance (Order IX, R. 9). Order II Rule 2 bars future suits for omitted claims, Order XXIII Rule 1 allows withdrawal with/without permission to refile, and Order IX Rule 9 provides a remedy to restore suits dismissed in default.

11. Order-II, Rule-2 ensures a plaintiff includes the entire claim/relief for a cause of action. If a plaintiff omits a portion of the claim or relinquishes it to bring the suit within jurisdiction, they cannot sue for that portion later. Therefore, splitting of claims bars future litigation on omitted claims.

12. Order XXIII, Rule 1 allows the plaintiff to voluntarily abandon a claim or withdraw from a suit. If withdrawn without court permission, no fresh suit can be filed on the same cause of action. If withdrawn with permission due to formal defects, a fresh suit can be filed.

13. Order-IX, Rule-9 deals with the consequences of the plaintiff failing to appear when the suit is called for hearing. The plaintiff is barred from filing a fresh suit on the same cause of action, but can apply to the same court to set aside the dismissal and restore the suit to its file.

14. No doubt, husband of the petitioner filed earlier filed O.P.Nos.1053 of 2007, 1124 of 2007 and 786 of 2008 before the court of the learned Principal District Judge, Visakhapatnam. The above three petitions were dismissed as not pressed. Admittedly, leave to file fresh petition was neither sought nor granted.

15. Further, the record emanates that O.P.Nos. 1053 of 2007 and 1124 of 2007 were dismissed for default. The applications filed for restoration were dismissed and then Civil Miscellaneous Appeals vide CMA Nos.750 & 860 of 2016 were filed and this Court allowed both the CMAs. vide common orders dated 18.06.2019 restoring the above said O.Ps.

15. In view of the above provisions, if the subject O.P. is founded on the same cause of action on which the earlier O.Ps. were filed and if the relief sought in the subject O.P. is available to the petitioner at the time of filing of the subject O.P., the petitioner is debarred from filing the subject O.P., since hit by Order-II, Rule-2 CPC, which debars splitting up of claims.

16. Further, if all the O.Ps. were founded on the same cause of action, withdrawal of earlier O.Ps. without seeking any permission from the Court to pursue the remedies in the subject O.P., debars the petitioner from pursuing the subject O.P.

17. Similarly, in case the cause of action is one and the same, the petitioner is precluded from filing the subject O.P., without seeking restoration of the earlier O.Ps.

18. From the above, now coming to the core issue involved in these Civil Revision Petitions as to whether the cause of action of the subject O.P. and the earlier O.Ps. is one and the same. A perusal of the contents of the subject O.P. shows that the cause of action for filing the subject O.P. arose on 18.02.2017 when according to the petitioner the respondent no.1 and his henchmen obtained certified copies of the renewals from respondent no.5 for Gum Society and on 17.03.2017 for TAPPC society by incorporating the names of respondent no.1 and his henchmen as office bearers by playing fraud. As

stated supra, the reliefs sought are for conducting enquiry considering the event taken place after filing earlier O.Ps., for declaration that respondent no.1 and henchmen included their names as office bearers of both the societies by playing fraud and for consequential injunction restraining respondent no.1 from using the certified copies before public officers i.e. banks.

19. Therefore, it is clear that the cause of action for filing the subject O.P. has arisen in view of the event that said to have taken place after filing the earlier O.Ps. and also on 18.02.2017 and 17.03.2017, when respondent no1. and his men got included their names as office bearers of the societies. The said cause of action is not available at the time of filing earlier O.Ps. Therefore, Order-II, Rule-2 CPC, Order-23, Rule-1(4) CPC and Order-IX, Rule-9 CPC are not applicable to the present facts of the case.

20. The learned trial Judge seems to have swayed by the contents which are more or less similar in all the O.Ps., rather than as to when the cause of action actually accrued on the petitioner for filing the subject O.P. Since the cause of action for filing the subject O.P. is not available at the time of filing the earlier O.Ps., the conclusions reached by the learned trial Judge in passing the impugned orders are untenable and unsustainable. Therefore, these Civil Revision Petitions are liable to be allowed.

21. Accordingly, the Civil Revision Petition vide CRP No.361 of 2024 is allowed, setting aside the order dated 14.12.2023 passed in I.A.No.612 of 2023 in O.P.No.607 of 2017 by the learned IV Additional District Judge, Visakhapatnam. Consequently, I.A.No.612 of 2023 in O.P.No.607 of 2017 shall stand dismissed. There shall be no order as to costs.

22. Civil Revision Petition vide CRP No.242 of 2024 is allowed, setting aside the order dated 14.12.2023 passed in O.P.No.607 of 2017. Consequently, O.P.No.607 of 2017 shall stand restored to file. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

8th April, 2026

JUSTICE RAVI CHEEMALAPATI
RR