

APHC010056982025



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

[3299]

THURSDAY ,THE THIRTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 276/2025

Between:

Molleti Veera Kumara Swami,

...PETITIONER

AND

Maddala Venkateswara Pentayyanaidu

...RESPONDENT

Counsel for the Petitioner:

1.NARASIMHA RAO GUDISEVA

Counsel for the Respondent:

1.

The Court made the following:

ORDER :

Heard Sri Narasimha Rao Gudiseva, learned counsel for the petitioner.

2. The petitioner is the defendant in O.S.No.53 of 2017 on the file of the X Additional District Judge at Anakapalli, filed by the respondent/plaintiff seeking recovery of amount of Rs.64,54,933/- together with interest @ 24% per annum, based on two promissory notes, dated 08.12.2014.

3. The petitioner/defendant filed a written statement on 14.06.2018, raising various pleas and denying the contents of the plaint. While the suit was at the stage of cross-examination of P.W.1, the petitioner filed I.A. No. 804 of 2024, seeking permission to file an additional written statement under Order 8 Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC'). The respondent filed objections/counter affidavit, opposing the prayer. The learned X Additional District Judge, Anakapalli, rejected I.A. No. 804 of 2024 by order dated 12.12.2024.

4. Challenging the order dated 12.12.2024, the present Civil Revision Petition has been filed.

5. Learned counsel for the petitioner submits that the impugned order cannot be sustained. The additional written statement was necessary to be filed. The petitioner wanted to explain certain facts of the written statement. He submits that a plea was being raised that the plaintiff forcefully obtained signatures on the blank promissory notes and non judicial stamps, under coercion and fraud and fabricated the same. He placed reliance in ***Life Insurance Corporation of India V. Sanjeev Builders Private Limited and Another***¹ to contend that the Court has power to take the additional written statement at any time.

6. I have considered the submissions of the learned counsel for the petitioner and perused the material on record.

¹ (2018) 11 SCC 722

7. Order 8 Rule 9 CPC reads as under :

“9.Subsequent pleadings :- *No pleading subsequent to the written statement of a defendant other than by way of defence to set off or counterclaim be presented except by the leave of the Court and upon such terms as the Court thinks fit, but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same.”*

8. A perusal of Order 8 Rule 9 CPC makes it evident that no pleadings subsequent to the written statement of the defendant, other than by way of defense to a set-off or counterclaim, shall be presented except with the leave of the Court and upon such terms as the Court may deem necessary. However, the Court may, at any time, require a written statement or an additional written statement from any of the parties and fix a time not exceeding 30 days for its submission.

9. In **Noorul Hassan V. Nahakpam Indrajit Singh and Others**², the Hon'ble Apex Court observed that the replication, though not a pleading as per Rule 1 of Order 6 CPC, is permissible with the leave of the Court under Order 8 Rule 9 CPC, which gives a right to file a reply in defence

² (2024) 9 SCC 353

to set-off or counterclaim set up in the written statement. The Hon'ble Apex Court further observed that, however, such leave is not to be granted mechanically. The Court before granting leave must consider the averments made in the plaint/election petition, the written statement and the replication. Upon consideration thereof, if the court feels that to ensure a fair and effective trial of the issues already raised, the plaintiff-election petitioner must get opportunity to explain/clarify the facts newly raised or pleaded in the written statement, it may grant leave upon such terms as it deems fit. The Hon'ble Apex Court clarified that while considering grant of leave, the court must bear in mind that, (a) a replication is not needed to merely traverse facts pleaded in the written statement; (b) a replication is not a substitute for an amendment; and (c) a new cause of action or plea inconsistent with the plea taken in original petition/plaint is not to be permitted in the replication.

10. Paragraph Nos.23 & 29 of **Noorul Hassan** (supra) reads as under :-

“23. Replication, though not a pleading as per Rule of Order 6, is permissible with the leave of the court under Order 8 Rule 9 CPC. Which gives a right to file a reply in defence to set-off or counterclaim set up in the written statement. However, if filing of replication is allowed by the court, it can be utilized for the purposes of culling out issues. But mere non-filing of a replication would not mean that there has been admission of the facts pleaded in the written statement (see K.Laxmanan V. Thekkayil Padmini¹³).

29. However, such leave is not to be granted mechanically. The court before granting leave must consider the averments made in the plaint/election petition, the written statement and the replication. Upon consideration thereof, if the court feels that to ensure a fair and effective trial of the issues already raised, the plaintiff-election petitioner must get opportunity to explain/clarify the facts newly raised or pleaded in the written statement, it may grant leave upon such terms as it deems fit. Further, while considering grant of leave, the court must bear in mind that, (a) a replication is not needed to merely traverse facts pleaded in the written statement; **(b) a replication is not a substitute for an amendment; and (c) a new cause of action or plea inconsistent with the plea taken in original petition/plaint is not to be permitted in the replication.**”

11. In **State of Rajasthan and Another V. Mohammed Iqbal and others**³, the Rajasthan High Court observed that application under Order 8 Rule 9 CPC cannot be treated as one under Order 6 Rule 17 CPC as both are contextually different. In paragraph No.9, it was held as under :

“9. The principles deducible from the above discussions may be summarized thus-

(a) The plaintiff cannot be allowed to introduce new pleas by way of his plaint. filing rejoinder, so as to alter the basis

(b) In rejoinder, the plaintiff can be permitted to explain the additional facts which have been incorporated in the written statement.

(c) The plaintiff cannot be allowed to come forward with an entirely new case in his rejoinder,

³ 1998 SCC OnLine Raj 46

(d) The plaintiff cannot be permitted to raise inconsistent pleas so as to alter his original cause of action.

(e) Application under Order 8 Rule CPC cannot be treated as one under Order 6 Rule 17 CPC as both are contextually different.”

12. In ***Smt.Mukut Raj Laxmi and Another V. Dr.Jitendra Singh and Others***⁴, the Rajasthan High Court observed that Order 8 Rule 9 confers discretion on the Court in granting leave for filing subsequent pleadings, but in the guise of subsequent pleadings, to set up a new case or incorporate certain inconsistent pleadings cannot be allowed.

13. In ***Novartis AG and Another V. NATCO Pharma Limited***⁵, the Delhi High Court observed that the Court has the authority to grant leave to file additional written statement to take into account subsequent events that may have a bearing on the suit. However, the filing of additional written statement cannot be claimed as a matter of right and a party would have to establish plausible grounds for granting leave to file additional written statement.

14. From the aforesaid judgments, it is settled that the provision under Order 8 Rule 9 CPC is not meant for amendment. The application under Order 8 Rule 9 CPC cannot be decided as an application under Order 6 Rule 17 CPC. A subsequent pleading is not a substitute for amendment.

⁴ 2015 SCC OnLine Raj 7054

⁵ 2025 SCC OnLine Del 27

Order 8 Rule 9 CPC allows for the subsequent developments related to the disputes already on record between the parties. A new cause of action cannot be permitted by way of subsequent pleadings.

15. In the present case, the defendant/petitioner, in the written statement, took a plea of total denial regarding the execution of the promissory note asserting further that no consideration was passed, nor was any loan advanced. However, through subsequent pleading, a new plea was sought to be introduced that the signatures were obtained through coercion and force on a blank promissory note and on non-judicial stamps by fraud and fabrication. In the written statement, there was no plea of fraud; rather, the defendant completely denied signing the promissory note. Therefore, it cannot be said that the subsequent pleading was explaining an already existing plea. It amounts to an amendment of the pleadings of the written statement, which cannot be permitted.

16. The application was also highly belated, filed almost five years of the filing of the written statement and after almost seven years of the institution of the suit.

17. The submission of the learned counsel for the petitioner is that leave can be granted at any time. The same may be correct, but when it comes to the Court. If the Court requires a written statement or an additional written statement to be filed by any of the parties, it may, on its own, direct the

same, at any time. However, when it comes to a party, the party must apply within a reasonable time and must also submit its justification. A party cannot file the replication/written statement/additional written statement at any stage of the proceedings nor can seek the Court's leave, as a matter of right. The learned Court has rightly rejected the application and has not committed any illegality in not granting the permission for subsequent pleadings.

18. The judgment in ***Sanjeev Builders Private Limited*** (supra) relied upon by the learned counsel for the petitioner is on the point of amendment under Order 6 Rule 17 CPC, as also on Order 2 Rule 2 CPC. It is not on the point of Order 8 Rule 9 CPC.

19. The Civil Revision Petition is devoid of merits and is dismissed.

No order as to costs.

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

RAVI NATH TILHARI, J

Date :13.02.2025.

Note :- L.R. Copy to be marked.

B/o
RPD.

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**(DISMISSED)****CIVIL REVISION PETITION NO: 276 OF 2025****Date :13.02.2025*****Note :- L.R. Copy to be marked.***B/o
RPD.

***HON'BLE SRI JUSTICE RAVI NATH TILHARI**
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% 13.02.2025

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.....Petitioner

And:

\$ 1. Maddala Venkateswara
Pentayyanaidu.

....Respondent.

!Counsel for the petitioner : Sri Narasimha Rao Gudiseva

^Counsel for the respondent/(s) : ---.

<Gist:

>Head Note:

? Cases referred:

1. (2018) 11 SCC 722
2. (2024) 9 SCC 353
3. 1998 SCC OnLine Raj 46
4. 2015 SCC OnLine Raj 7054
5. 2025 SCC OnLine Del 27

HON'BLE SRI JUSTICE RAVI NATH TILHARI**CIVIL REVISION PETITION NO: 276 OF 2025**

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....Respondent.

DATE OF JUDGMENT PRONOUNCED : 13.02.2025

SUBMITTED FOR APPROVAL:**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

1. Whether Reporters of Local newspapers may be Allowed to see the judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair Copy of the Judgment? Yes/No

RAVI NATH TILHARI, J