

HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI
CIVIL REVISION PETITION NO: 3585 OF 2015

Between:

1. K SUBRAMANYAM S/o. Venkata Ramana, Aged about 44 Years,
Occ: Cultivation, R/o. Door No. 2-356, Latchanna Street, Madanapalle
townm, Chittoor district.

...PETITIONER(S)

AND:

1. V. VIJAYAKUMARI & 14 OTHERS W/o. Late B. Rame Gowdu, Aged
about 73 Years,
Occ: House wife,
2. B.R. Bhavani, S/o. D. Ramesh, Aged about 45 years, R/o. D. No. 487/2,
46th Street, Manthope Colony, Ashok Nagar, Chennai - 83, Tamilnadu
State.
3. B.R. Kala Reni, W/o. M. Rajendran,
Aged about 44 Years, Occ: House wife,
4. B. Leelavathi, S/o. Rame Gowdu,
Aged about 43 Years,
5. B.R. Thilak Kumar, S/o. Rame Gowdu,
Aged about 41 years,
6. B.R. Amarnath, S/o. Late B.Rame Gowdu,
7. B.R. Sreevalli, D/o. Late B.Rame Gowdu
Respondents/Plaintiffs No. 4 to 7 are residing with theist respondent at
Door No. 11-16, Tapalaraju Street, Kuppam Town & Posts,
8. B.S. Mohan Reddy -
9. B.S.Dreenivasulu Gowdu, -
10. B.S.Krishna Gowdu @ Krishnamurthy, -
11. B.S.Jayakumar, -
12. B.S.Vijaya Bhaaskar Reddy, -
13. Anitha, Respondents No. 8 to 12 are the sons of Late B. Sessaiah Gowdu
and
13th Respondent is the daughter of B. Sessaiah Gowdu and wife of
Sankar Reddy.
All are land holders and residing at Baireddipalle Village and Mandal,
Chittoor District and 13th Respondent is residing at C/o. Shankar Reddy,
PC extension Takel Road, Opp: Agro Office, Kolar Town & District
14. B.Chinnabba, S/o. B.Gangaiah
R/o. D.No. 4-3-2A-7, Krishna Nagar, Madanapalle,
Chittoor District.
15. Smt. Sarojamma, W/o. M.Narayanaswamy
R/o. D.No. 10-63, Narayanaswamy Mudaliar Street,
Kuppam Town, Chittoor District.
(RR NO. 8 to 15 are not necessary Parties)

...RESPONDENTS

Counsel for the Petitioner(s): SURESH KUMAR REDDY KALAVA

Counsel for the Respondents:

The Court made the following: ORDER

2023:APHC:9933

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CIVIL REVISION PETITION NO.3585 OF 2015

Between:

K.Subramanyam, S/o. Venkata Ramana, 44 years, Cultivation,
R/o.Door No.2-356, Latchanna Street, Madanapalle Town, Chittoor
District.

... Petitioner/Petitioner/Proposed 9th Defendant

Versus

1. V.Vijaya Kumari, W/o. Late B. Rame Gowdu, 73 years,
Housewife,
 2. B.R.Bhavani, S/o. D.Ramesh, 45 years, R/o.Door
No.487/2, 46th Street, Manthope Colony, Ashok Nagar,
Chennai-83, Tamilnadu State.
 3. B.R.Kala Reni, W/o. M.Rajendran, 44 years, Housewife.
 4. B.R.Leelavathi, D/o. Rame Gowdu, 43 years.
 5. B.R.Thilak Kumar, S/o. Rame Gowdu, 41 years.
 6. B.R.Amarnath, S/o. Late B.Rame Gowdu, 41 years.
 7. B.R.Sreevalli, D/o. Late B.Rame Gowdu, 39 years.
- Respondents/Plaintiffs No.3 to 7 are residing with the 1st
respondent at Door No.11-16, Tapalaraju Street, Kupam
Town & Post.
8. B.S.Mohan Reddy, 59 years.
 9. B.S.Sreenivasuly Gowdu, 57 years.
 10. B.S.Krishna Gowdu @ Krishnamurthy, 55 years.
 11. B.S.Jayakumar, 52 years.
 12. B.S.Vijaya Bhaskar Reddy, 47 years.
 13. Anitha, 42 years.

Respondents No.8 to 12 are the sons of Late B.Seshaiah
Gowdu and 13th respondent is the daughter of B.Seshaiah
Gowdu and wife of Sankar Reddy.

All are land holders and residing at Baireddipalle village and Mandal, Chittoor District and 13th respondent is residing at C/o. Shankar Reddy, PC extension Takel Road, Opposite Agro Office, Kolar Town and District.

14. B.Chinnabba, S/o. B.Gangaiah, 83 years, R/w.D.No.4-3-2A-7, Krishna Nagar, Madanapalle, Chittoor District.
15. Sarojamma, W/o. M.Narayanaswamy, 72 years, R/o.D.No.10-63, Narayanaswamy Mudaliar Street, Kuppam Town, Chittoor District.

(Respondents No.8 to 15 are necessary parties)

... Respondents/Respondents/Plaintiffs

* * * * *

DATE OF ORDER PRONOUNCED : 15.03.2023.

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

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

B.V.L.N.CHAKRAVARTHI, J

*** HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

+ CIVIL REVISION PETITION NO.3585 OF 2015

% 15.03.2023

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... Petitioner/Petitioner/Proposed 9th Defendant

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(Respondents No.8 to 15 are necessary parties)

... Respondents/Respondents/Plaintiffs

! Counsel for the Revision-petitioner/ :: Sri Suresh Kumar
Proposed 9th Defendant Reddy Kalava

^ Counsel for the Respondents :: No Vakalat filed on
behalf of respondents

< **Gist:**

> **Head Note:**

? **Cases referred:**

1. **AIR 1957 Pat 729 (731).**
2. **AIR 1972 Goa 42 (43).**
3. **AIR 1973 SC 569 (581).**

This Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI
CIVIL REVISION PETITION NO.3585 OF 2015

O R D E R:

Heard both counsels.

2. This revision-petition is filed by the unsuccessful third-party, who filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (for brevity 'CPC') claiming that he purchased the property on 28.08.2014 from the defendant No.7 in the suit, which was filed for 'Partition'. The suit was filed in the year 2005.

3. The Trial Court 'Dismissed' the application *vide* I.A.No.119 of 2015 in O.S.No.8 of 2005 on 03.07.2015, observing that any alienation made during the pendency of the suit is hit by Section 52 of the Transfer of Property Act, 1882 and that the petitioner has no independent right in the suit property and further, his vendor is already on record and therefore, the petitioner is not a necessary party to the suit.

3. The point that arises for consideration is:-

“Whether the Trial Court committed any irregularity in the Order, dated 03.07.2015 passed in I.A.No.119 of 2015 in O.S.No.8 of 2005?”

4. **P O I N T:-**

The facts and circumstances would establish that the revision-petitioner purchased the property covered by the suit filed for 'Partition' from one of the defendants in the suit on 28.08.2014, pending the suit. The effect of the *doctrine of lis pendens* as embodied in Section 52 of the Transfer of Property Act, 1882 is not to annul the transfer, but only to render it subservient to the rights of the parties thereto under the decree or order which may be made in that suit. The fact of said doctrine is to make the decree passed in the suit binding on the transferee if, they happened to be third-party even if they are not parties to the suit.

5. In ***T. Bhup Narain Singh v. Nazvab Singh***¹, the Hon'ble Apex court held as under:

"The words "so as to affect the rights of any other party thereto under any decree or order which may be made therein" make it quite clear that the transfer is good except to the extent that it might conflict with rights decreed under the decree or order."

6. In ***Prabhakar v. Antonia***², the Hon'ble Supreme Court held as under:

¹ AIR 1957 Pat 729 (731).

“A transfer or a dealing by a party to a suit during the pendency of the suit or proceeding is not, ipso facto void. It only cannot affect the rights of any other party to the suit under any decree or order that may be made in the suit or proceeding.”

7. While considering the true import and scope of Section 52 of the Transfer of Property Act, 1882 the Hon'ble Supreme Court in **Jaynram Mudaliar v. Ayyaswami**³, observed:

"It is evident that the doctrine as stated in Section 52, applies not merely to actual transfers of right which are subject-matter of litigation but to other dealings with it "by any party to the suit or proceeding, so as to affect the right of any other party thereto".

8. It may be stated that the rule/principle enacted in this section is in a sense an extension of the rule of *res judicata* and makes the adjudication in the suit binding on alienees from parties during the pendency of the suit, just as much as the *doctrine of res judicata* makes the adjudicating binding, not only on the parties themselves but also on alienees from them after the decree. It affects a purchaser

² AIR 1971 Goa 42 (43).

³ AIR 1973 SC 569 (581).

pendente lite, not because it amounts to notice, but because the law does not allow a litigant party to give to others, pending the litigation rights, to the property in dispute, to prejudice the opposite party.

9. The learned counsel for the respondent would submit that the revision-petitioner was examined as a witness in the suit during the trial.

10. Considering the above facts and law, there are no grounds to interfere with the Order of the Trial Court as there is no material irregularity was committed by the Trial Court while dismissing the application filed by the revision-petitioner under Order I Rule 10 of the Code of Civil Procedure, 1908. In that view of the matter, the revision-petition is liable to be dismissed.

11. Accordingly, the Civil Revision Petition is 'Dismissed'. There shall be no order as to costs.

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

B.V.L.N.CHAKRAVARTHI, J

15th March, 2023.

DNB