



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

[3299]

FRIDAY, THE TWENTY FIFTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 1768/2025

Between:

1. MAGANTI MANJULA, W/O. SRINIVASA RAO AGED 45 YEARS, HOUSEWIFE, RESIDENT OF VINJARAMPADU VILLAGE PEDAPARUPUDI MANDAL, KRISHNA DISTRICT.

...PETITIONER

AND

1. PALLAPOTHU NARAYANA RAO, S/O. SUBBA DASU AGED 40 YEARS. CULTIVATION, RESIDENT OF VINJARAMPADU VILLAGE PEDAPARUPUDI MANDAL, KRISHNA DISTRICT.

2. PALLAPOTHU JAHNAVI, D/O. NARAYANA RAO AGED 13 YEARS. STUDENT, RESIDENT OF VINJARAMPADU VILLAGE, PEDAPARUPUDI MANDAL, KRISHNA DISTRICT REPRESENTED BY HER FATHER AS NATURAL GUARDIAN PALLAPOTHU NARAYANA RAO.

3. PALLAPOTHU AKNKSHA, D/O. NARAYANA RAO AGED 10 YEARS, STUDENT, RESIDENT OF VINJARAMPADU VILLAGE, PEDAPARUPUDI MANDAL, KRISHNA DISTRICT (RESPONDENTS 2 AND 3 ARE MINORS REPRESENTED BY HER FATHER AS NATURAL GUARDIAN PALLAPOTHU NARAYANA RAO). NO RELIEF CLAIMED AGAINST TO RESPONDENTS IN THIS CIVIL REVISION PETITION AS NOTICE WAS NOT YET ORDERED BEFORE THE TRAIL COURT.

...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 topleased to set aside the Order dated 13.05.2025 passed in G.L. No. 826/2025 in O.S.No. Of 2025 on the file of Principal Civil Judge (Junior Division) at Gudiwada, Krishna District and may kindly direct the trail court register the suit filed in G.L. No. 826/2025 on the file of Principal Civil Judge (Junior Division) at Gudiwada, Krishna District in the interest of justice and pass

Counsel for the Petitioner:

1.KAMBHAMPATI RAMESH BABU

Counsel for the Respondent(S):

1.

The Court made the following:**ORDER:**

Heard Sri Kambhampati Ramesh Babu, learned counsel for the petitioner.

2. The petitioner/plaintiff instituted a suit for recovery of money based on a promissory note allegedly executed by respondent No.1/defendant No.1. He also impleaded the minor daughters of defendant No.1, as defendant Nos.2 and 3 contending that the 1st defendant borrowed the money representing that he constituted joint family with defendant Nos.2 & 3 and being kartha of the joint family, he (defendant No.1) borrowed the money and as defendant Nos.2 & 3 were also liable for the debt incurred by defendant No.1.

3. The learned Principal Civil Judge (Junior Division), Gudivada, by order dated 13.05.2025 in G.L. No.826 of 2025, returned the plaint at the stage of registration, questioning the liability of defendant Nos.2 and 3 for the debt incurred by defendant No.1 under suit promissory note. The learned trial Court considered the amended provisions of Section 6(4) of the Hindu Succession Act, 1956 (in short, "the Act") and opined that after the amendment of 2005, no court shall recognize the right of a creditor to proceed against the son, grandson or great grandson of a debtor for debts contracted by father, grandfather or great grandfather solely on the

ground of pious obligation and son, grandson, great grandson also include daughter, granddaughter, great granddaughters.

4. Learned counsel for the petitioner contends that the suit was maintainable against defendant Nos.2 and 3 as well, in view of the judgments of the High Court of Andhra Pradesh in ***Bhupatiraju Sriram Raju v. Nadimpalli Pullam Raju***¹ and the High Court of Madhya Pradesh in ***Chandredatta v. Sanat Kumar***², which were cited before the learned trial Court and sought registration of the plaint.

5. Learned counsel for the petitioner further submits that it is not in dispute that the suit promissory note was executed solely by defendant No.1, but the question of maintainability of the suit against defendant Nos.2 and 3, as also the applicability of Section 6(4) of the Act, are the matters that fall within the domain of trial, and as such, the Court, at the stage of registration, had no jurisdiction to adjudicate upon those issues and refuse registration of the suit.

6. I have considered the aforesaid submissions and perused the material on record.

¹ AIR 1963 AP 403

² Air 1973 MP 169

7. Section 6 (4) of the Hindu Succession Act, 2005, as amended reads as under :

Section 6. Devolution of interest in coparcenary property :-

(1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,—

(a) by birth become a coparcener in her own right the same manner as the son;

(b) have the same rights in the coparcenary property as she would have had if she had been a son;

(c) be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener:

Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.

(2) Any property to which a female Hindu becomes entitled by virtue of sub-section (1) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property capable of being disposed of by her by testamentary disposition.

(3) Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship, and the coparcenary property shall be deemed to have been divided as if a partition had taken place and,—

(a) the daughter is allotted the same share as is allotted to a son;

(b) the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and

(c) the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

(4) After the commencement of the Hindu Succession (Amendment) Act, 2005, no court shall recognize any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grand father or great-grand father solely on the ground of the pious obligation under the Hindu law, of such son, grandson or great- grandson to discharge any such debt:

Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005, nothing contained in this subsection shall affect-

(a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or

(b) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 had not been enacted.

Explanation -For the purposes of clause (a), the expression "son", "grandson" or "great- grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of the Hindu Succession (Amendment) Act, 2005."

8. Whether the liability is sought to be fastened upon defendant Nos.2 & 3 on the basis of any pious obligation or not is a question, which required determination only after the registration of the suit, and framing of appropriate issues, during trial. Whether any pious obligation would arise during the lifetime of defendant No.1, would also be a relevant point. So, the question of applicability of Section 6(4) of the Act requires consideration during trial. Further, Section 6(4) of the Act does not impose a bar on the institution of the suit. On fulfillment of the conditions under Section 6(4) of the Act, the Court shall not recognize any such right under Section 6(4) and so, at best the suit would be dismissed against defendant Nos.2 & 3. But, that does not mean that the suit is not to be registered and not tried.

9. The suit is certainly maintainable against the 1st defendant, on the basis of the promissory note said to be executed by him.

10. Additionally, the trial Court has the power in any suit to direct deletion of a party under Order 1 Rule 10 CPC.

11. In the considered view of this Court, the learned Trial Court, has travelled beyond its jurisdiction by entering into the merits of the maintainability of the claim against defendant Nos.2 and 3, at the stage of registration of the suit and in refusing registration.

12. Issuance of notice to the respondents/defendants is dispensed with, as the impugned order is refusal of registration of suit.

13. The Civil Revision Petition is allowed. The order dated 13.05.2025 passed by the learned Principal Civil Judge (Junior Division), Gudivada, in G.L. No.826 of 2025 is set aside.

14. The original plaint shall be returned to the petitioner for re-submission before the Court concerned, which shall register the suit in accordance with law.

15. No order as to costs.

16. It is made clear that this Court has not expressed any view on the merits of the claim or the defence of the parties. The observations made herein are only for the purpose of deciding the issue of registration of the plaint.

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

RAVI NATH TILHARI, J

Date :25.07.2025.

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

B/o
RPD.

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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**(ALLOWED)****CIVIL REVISION PETITION NO: 1768 OF 2025****Date : 25.07.2025*****Note :- L.R. Copy to be marked.***B/o
RPD..

***HON'BLE SRI JUSTICE RAVI NATH TILHARI**
+ CIVIL REVISION PETITION NO: 1768 of 2025
% 25.07.2025

#1. Maganti Manjula

.....Petitioner

And:

\$ 1. Pallapothu Narayana Rao and
others.

....Respondents.

!Counsel for the petitioner : Sri Kambhampati Ramesh Babu

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

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>Head Note:

? Cases referred:

1. AIR 1963 AP 403
2. Air 1973 MP 169

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.....Petitioner

And:

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....Respondents.

DATE OF JUDGMENT PRONOUNCED : 25.07.2025

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

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| 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