

(2025) 06 AP CK 0136

In the Andhra Pradesh High Court, Amaravati

Case No : Civil Revision Petition No: 448 Of 2025

K. Mohammed Arif

APPELLANT

Vs

K Mohammed Fairoz & Ors.

RESPONDENT

Date of Decision : 05-06-2025

Acts Referred:

Code Of Civil Procedure 1908 — Order 7 Rule 11

Citation : (2025) 06 AP CK 0136

Hon'ble Judges : Gannamaneni Ramakrishna Prasad, J

Bench : Single Bench

Advocate : P Narahari Babu

Final Decision : Disposed Of

Judgement

Gannamaneni Ramakrishna Prasad, J

1. Heard Sri M.K. Raj Kumar, learned Counsel appearing on behalf of Sri P. Narahari Babu, learned Counsel for the Revision Petitioner.

2. Having been aggrieved of non-numbering of the Suit by the Office (Filing Section) of the Additional District Judge, Hindupur, the present Civil Revision Petition is filed.

3. Plaintiff is the Revision Petitioner herein. The Suit is filed for specific performance. There are several Defendants in the Plaint. The prayer sought in the Plaint (suit) is as under:-

"It is prayed that the Hon'ble court be pleased to pass

(a) a Decree in favour of the plaintiff and defendants No.1 to 4 and against the defendants No.5 for specific performance of the contract and Oppudal khararu and,

b) Direct the defendants No.1 to 4 to deposit their share of balance of sale consideration under agreement and Oppudal khararu Dt: 07.04.2021 into the

Court and in case in failure of the deposit of the balance of sale consideration to extent of their share, the Honourable court may direct the defendant No.5 to execute the regd. sale deed to the extent of the plaintiff share in the suit schedule property in favour of the plaintiff

c) and in case if they fail to execute the regd. Sale deed, the Hon'ble court may execute the regd. sale deed on behalf of the defendant No.5 through court and give possession of the same and,

d) Award costs of the suit, and

e) Grant such other relief or reliefs as the Hon'ble Court deems fit in the circumstances of the case and in the interest of justice".

4. The following chronological events are relevant for deciding the present Revision Petition:

i. 06.04.2025 – Complaint was presented in Office (Filing Section).

ii. 07.05.2024 – Complaint was returned with the following office objections:

a) How the Plaintiff filed this Suit as the Plaintiff is not at all party in the Agreement of Sale dated 07.04.2021.

b) Stamp Duty and Penalty should be paid for Agreement of Sale dated 07.04.2021.

c) Stamp Duty and Penalty should be paid for Mutual Agreement (Voppudala Khararunama) dated 07.04.2021

d) Correct provision of law should be mentioned for payment of Court Fee.

e) Deficit Court Fee should be paid.

f) Deficit Welfare Stamp should be paid.

g) Separate schedule copies – 2 Nos. should be filed.

iii. 15.06.2024 – Office Objection Nos.1,2,3 & 5 were purportedly complied with. Insofar as the Office Objection No.1 is concerned, the Plaintiff has given the following explanation :

"1. Objection No.1 that: The defendants No.4 purchased the suit schedule property from the defendant No.5, dt: 07-04-2021 and on the same day, the defendants No.1 to 4 and plaintiff were entered in to the Mutual agreement (OPPUDALA KHARAARU). As per Mutual agreement between and defendants No.1 to 4 and plaintiff, were jointly purchased the suit schedule property on the same day i.e. 07.04.2021. Thus, Mutual agreement dated: 07.04.2021 and agreement of sale dt: 07.04.2021 in each other documents are simultaneously linked documents. The defendant No.4 being the as party to the agreement of sale Dated: 07.04.2021, and defendants No.1 to 4 and plaintiff were entered in to the mutual agreement. Hence, the plaintiff is filed the suit."

iv. 28.06.2024 – Plaintiff was directed to comply with Office Objection Nos. 2 and 3.

v. 03.07.2024 – Office Objections were again purportedly complied with and the Complaint was re-represented.

vi. 09.09.2024 – the Office has returned the Complaint once again with the following objections:

“To state how this Suit is maintainable for the relief of specific performance”.

vii. 17.09.2024 – the Plaintiff/Revision Petitioner, purporting to have complied with the Office Objection, re-represented the Complaint once again on 17.09.2024 with the following clarifications :

“Both the Documents i.e. Agreement of sale and Oppudala Kharararu were written in one date and same timing i.e. 07.04.2021. As per Oppudala Kharararu (Mutual agreement) the defendants No.1 to 4 and plaintiff, were jointly purchased the suit schedule property on the same day i.e. 07-04-2021 and same is pleaded in the Oppudala Kharararu about the agreement of sale dated: 07.04.2021. Thus, Oppudala Kharararu (Mutual agreement) dated: 07.04.2021 and agreement of sale dt: 07.04.2021 in each other documents were been simultaneously linked documents and taken in to the consideration. Hence, objection complied.

Note: 14-09-2024, 15-09-2024 and 16-09-2024 being public Holidays. Hence suit is represented next working day i.e. 17-09-2024.”

viii. 03.10.2024 – the Complaint was returned with Office Objection stating that : “Objection dated 09.09.2024 shall be complied properly. Hence returned. Time 7 days”

5. All the Objections that were raised were signed by the Additional District Judge, Hindupur.

6. For the disposal of the present C.R.P., it is not necessary for this Court to consider the facts even though this Court has minutely gone through all the relevant facts emerging from the Complaint and material documents filed along with the Complaint. For the present purpose, it is relevant to place reliance on the contents from a book titled as “A Guide for the Ministerial Officers of Subordinate Courts working under the control of the High Court of Andhra Pradesh” (the Guidelines), which is published by the Andhra Pradesh Judicial Academy. Relevant portion of the Guidelines is extracted herein below:

“INSTRUCTIONS TO THE CHIEF MINISTERIAL OFFICERS;

1) A complaint has to be either numbered or returned within 3 days.

2) All objections which may be relevant shall be taken at one time.

Taking of piecemeal objections shall be avoided.

3) The plaint shall be returned for more than three times. If still the objections remained unanswered, the plaint shall be placed at bench for hearing the advocate and for passing necessary orders.

4) It is the responsibility of the C.M.O to bring it to the notice of the Presiding Judge as to whether the plaint contains any unnecessary, scandalous, frivolous, vexatious matters or if it is an abuse of the process of the court in order to strike out the same by court as per Order 6 Rule 16 C.P.C

5) xxx.”

7. As per the said Guidelines, when the defects are notified for three times by the Office (Filing Section) and in the opinion of the Office/Court, the Plaintiff/ Plaintiffs (through their Counsel) have not cured the defects, which are pointed out, to the satisfaction of the Office (Filing Section), it is mandatory for the Office to post the matter for hearing in the open Court as regards the uncured Objections.

8. This apart, Rule No.22 (new) of the Andhra Pradesh Civil Rules of Practice empowers the Ld. Judge to hear on the uncured Objections raised by the Office (Filing Section) in the open Court and Rule on the same. Upon hearing of the objections, if the Ld. Judge is satisfied, Ld. Judge may proceed to direct the Registry to number the Suit or the Ld. Judge may reject the plaint under Order VII Rule 11 of the Civil Procedure Code, 1908 (C.P.C) if the Ld. Judge is not satisfied with the submissions made by the Ld. Counsel for the Plaintiff/Plaintiffs.

9. Rule 22 (new) of the Andhra Pradesh Civil Rules of Practice, 1990 is usefully extracted hereunder:

“22. (New) Procedure on presentation:-

(1) On presentation of every plaint the same shall be entered in Register No. 17 in Appendix II, Part-II, Volume II and examined by the Chief Ministerial Officer of the Court.

(2) If he finds that the plaint complies with all the requirements, he shall make an endorsement on the plaint ?Examined and may be registered? with the date and his signature and placed before the Judge, The Chief Ministerial Officer shall also endorse on the plaint or proceedings if any caveat has been filed. If he thinks that the plaint shall be returned for presentation to the proper court or be rejected under Order VII Rule 11 or for any other person, he shall place the matter before the Judge for orders.

(3) Subject to the provisions of sub-rule (2), any non-compliance with these rules or any clerical mistake may be required by the Chief Ministerial officer to be rectified. Any rectification so effected, shall be initialled and, dated by the party or his advocate making the same and the Chief Ministerial Officer shall note the number of corrections in the margin and shall initial and date the same.

In the event of such rectification not being made within the time specified, the

Chief Ministerial Officer shall place the matter before the Judge for Orders.”

10. A Learned Single Judge of this Court had an occasion to deal with this aspect in Gorripati Veera Venkata Rao and Others Vs. Ethalapaka Vanaja and Others (C.R.P.No.1841 of 2024, decided on 10.01.2025) : 2025 SCC OnLine AP 50. The Learned Single Judge, having dealt with various Authorities and the provisions of law had held as under:

“42. The maintainability of a suit is always a question which is to be decided by the Court. The present stage is the registration of the plaint. After registration and placing of the plaint before the Court for consideration, such question of maintainability may be considered and answered. It is not the stage to raise the question of maintainability, unless the maintainability of the suit on the face of it is barred, by some statute, or the jurisdiction of the Civil Court is ousted on the face of the legal provisions. In such a case, also, the Registry can raise the objection, note down the objection about maintainability, but, it cannot insist to explain before the Registry, and satisfy about the suit maintainability. The Registry has no power to decide such objection. After raising the objection on maintainability of the suit, the matter is to be placed before the Court, where the plaintiff has to satisfy the Court about the maintainability. Deciding the maintainability of the suit is a judicial function and not a ministerial function. Consequently, even if there be a valid objection to the maintainability of a suit, the plaint is not to be refused registration nor is to be returned by the Registry but is to be placed before the court, pointing out such objection.”

(emphasis supplied)

11. The facts in this case would indicate that the Office (Filing Section) has already returned the Plaint, nearly about four times in order to enable the learned Counsel for the Plaintiff to cure defects and answer the Objections on the maintainability. First time the Plaint was returned on 07.05.2024 pointing out about seven (07) defects (extracted supra). The second time, the Plaint was once again returned by the Registry on 28.06.2024 with a direction to the Plaintiff ?to comply with Office objection Nos. 2 and 3 dated 07.05.2024.?

12. The third time, the Plaint was returned on 09.09.2025 with a direction “to state as to how the suit is maintainable for Relief of Specific Performance.” For the 4th time, the Plaint was once again was returned with office Objections on 03.10.2024 indicating that “objection dated 09.09.2024 shall be complied properly”. The facts would indicate that the plaint was returned for want of curing deficiencies/defects on 07.05.2024, 28.06.2024, 09.09.2024 and 03.10.2024. Since the trial Court has already returned the Plaint more than three times, exercising its power under Rule-22 (new) of the Andhra Pradesh Civil Rules of Practice, the trial Court ought to have listed the matter for hearing in the open Court and decide accordingly as per law. As stated earlier, this Court has considered the facts involved in the Plaint. Having done so, this Court is of the opinion that the objections raised therein are completely justified in law and a

burden is cast on the learned Counsel representing the Plaintiff to satisfy the Learned Presiding Officer as regards the maintainability.

13. In this view of the matter, this C.R.P is disposed of with a direction to the Court of Additional District Judge, Hindupur to post this matter (Plaint Vide CF No.1386, dated 06.04.2024) at any convenient date for open hearing and dispose of the same in accordance with law within a period of four (04) weeks from today. It is clarified that this Court has not expressed anything on merit. Any observations made herein shall not have any bearing on the Learned Presiding Officer.

14. Registry is directed to convey a copy of this Order to the Additional District Judge, Hindupur within one week from today for effective compliance.

15. With these observations and directions, this C.R.P stands disposed of. No order as to costs.

16. Interlocutory Applications, if any, stand closed in terms of this order.