

HIGH COURT OF ANDHRA PRADESH

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CIVIL REVISION PETITION No.798 of 2026

Between:

Kumari Kundrapu Priyanka and another

..... PETITIONERS

AND

Smt. Bandaru Varalakshmi and 3 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED : 02.04.2026

DATE OF JUDGMENT PRONOUNCED : 30.04.2026

DATE OF JUDGMENT UPLOADED : 30.04.2026

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

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

+ CIVIL REVISION PETITION No.798 of 2026

% 30.04.2026

Kumari Kundrapu Priyanka and another

....Petitioners

Versus

\$ Smt. Bandaru Varalakshmi and 3 others

....Respondents

! Counsel for the Petitioners : Sri Goli GVS Sai
For Sri TSBV Rama Reddy

^ Counsel for respondents : --

< Gist :

> Head Note:

? Cases Referred:

1) 2025 SCC OnLine AP 50

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**CIVIL REVISION PETITION No. 798 of 2026****JUDGMENT:**

The petitioners are the claim petitioners, who have filed an un-numbered claim petition under Order XXI Rule 58 of the Code of Civil Procedure, 1908 (in short 'CPC'), at the stage of registration (G.R.No.360 of 2026) in E.P.No.57 of 2019 in O.S.No.302 of 2017, on the file of the Court of the X Additional District and Sessions Judge, Anakapalli.

2. This C.R.P under Article 227 of the Constitution of India has been filed raising the grievance that the said claim petition filed by the claim petitioners under Order XXI Rule 58 C.P.C. was returned at the numbering stage by the said Court for the third time, raising different objections to the registration on all the occasions the same was presented and represented.

3. The prayer has been made to set aside the orders of return of the claim petition at the stage of numbering and to direct the Court of the X Additional District Judge, Anakapalli to register the claim petition filed in G.R.No.360 of 2026 in the aforesaid case.

4. The respondents 1 and 2 herein are the plaintiffs/decreed holders. They hold the decree in a suit for recovery of amount against the defendants/judgment debtors, passed in O.S.No.302 of 2017 by the Court of the Principal District Judge, Visakhapatnam.

5. The decree holders filed E.P.No.57 of 2019 for execution of the decree. In the E.P, an order of attachment of the E.P schedule property was passed. In the said E.P, the petitioners filed the claim petition under Order XXI Rule 58 C.P.C inter alia to raise the attachment levied over the schedule properties, claiming that the said property was ancestral in nature, jointly owned by the claim petitioners and others but was illegally attached. The 3rd respondent had no right, title or interest. Whereas the 4th respondent (father of the claim petitioners) had no exclusive right. The attachment adversely affects the right and title of the claim petitioners. It was stated that the 4th respondent at the most would be entitled to 1/3rd share in the attached schedule properties.

6. The claim petition in G.R.No.360 of 2026 was returned on 20.01.2026, with the following office objections:

“Return dt:20/01/2006

1. How the claim petitioners **are entitled to file the claim petition without having any right/title over the E.P schedule property.**
2. The claim petitioners should **file any documents to show their title and right with regard to E.P schedule property.**

Hence returned.

Time 7 days”

7. The claim petition was represented on 23.01.2026, giving the explanation to the objections raised, objection wise. The said representation dated 23.01.2026 with endorsement reads as under:

“The claim petition is represented after proper explanations and compliance to the objections taken by the Honourable Court dated 20-01-2026.

Objection No.1: How the claim petitioners are entitled to file the claim petition without having any right/title over the EP schedule property?

Explanation: It is an undisputed fact that the claim petitioners are the natural sisters and daughters, respectively, of the judgment Debtors. Sri Kundrapu Venkata Swamy Naidu and Smt. Kundrapu Padmavathi.

The properties described in the Execution Petition Schedule are ancestral properties. This status is not in dispute, as evidenced by the ROR-1B report filed by the Decree Holders themselves, which traces the origin of these properties to inheritance within the family of the Judgment-Debtors.

The properties detailed in the Claim Petition Schedule and the Execution Petition Schedule are identical. These ancestral properties have not yet been partitioned amongst the rightful legal heirs and sharers.

Consequently, the EP Schedule Properties remain undivided and jointly held. The Claim Petitioners, along with the 2nd Judgment Debtor (their father and the familial head), hold joint title, interest, and constructive possession over the said properties.

Therefore, the very document (ROR-1B) furnished by the Decree Holders to establish the Judgment Debtors connection to the property simultaneously substantiates the Claim-Petitioners derivative right, title, and Interest in the same. The Claim Petition is thus perfectly maintainable.

In further support of their identity and locus, copies of relevant revenue records concerning the properties and the Aadhaar cards of the Claim-Petitioners were already filed alongside the original Claim Petition.

Objection No. 2: The Claim-Petitioners should file any documents to show their title and right with regard to EP Schedule Property

Explanation: As reiterated, the subject properties (Claim Petition Schedule/EP Schedule) are undivided and un-partitioned ancestral holdings.

In such a scenario and in accordance with prevailing revenue practice, the mutation of record (ROR) has been correctly effected in the name of the familial head, Sri Kundrapu Venkata Swamy Naidu, who is also the 2nd Judgment-Debtor.

The existence of a joint family estate is a matter of fact and law. Separate individual documentary title deeds are not generated unless and until a partition by metes and bounds is effected. Hence, the current revenue record (ROR) itself, showing the property in the name of the family head representing the joint family, is the primary and sufficient document to demonstrate the collective rights of all coparceners, including the Claim-Petitioners.

In view of the above no separate document, beyond the already revenue records, is required to be filed to establish the Claim Petitioners' rights at this stage.

The objections taken by the Honourable Court dated 20-01-2026 were accordingly explained and complied with. Hence the suit is re-presented."

8. The learned Trial Court returned it again on 29.01.2026 with the following endorsement:

"Return dt. 29/1/2026

On thorough verification of petition **the cause of action date is not mentioned with reference to attachment of schedule property.**

Time 7 days."

9. The petitioners again represented on 03.02.2026, with the explanations, which read as under:

"Re-Presented on 03-02-2026:

The Claim Petition is re-presented after proper explanation to the objection taken by the Honourable Court dated 29-01-2026.

Objection: On thorough verification of Petition the cause of action date is not mentioned with reference to attachment of Schedule Property

Explanation: The **cause of action** to file the present Claim Petition arose when the Decree Holder sought attachment of the Schedule Properties and **when this Honourable Court ordered attachment of the said Schedule Properties.** The Claim Petitioners came to know recently that the Schedule Properties over which they have right, title, interest and possession, were

attached in the above matter, and hence filed the present Claim Petition seeking to raise the attachment over the Schedule Properties.

The **date of attachment is a matter of court record**. The Claim-Petitioners also came to know that the Schedule Properties are under attachment and are proposed to be brought to public auction for realization of the decretal amount under the alleged decree.

If the office raises fresh objections in a piecemeal manner and the Claim-Petitioners are compelled to explain each objection without the petition being numbered, and in the meantime if the Schedule Properties are auctioned, the rights and interests of the claim-Petitioners over the Schedule properties would be seriously prejudiced and their civil rights would be adversely affected.

The Hon'ble High Court of Madras (Madurai Bench), in **Selvaraj VS. Koodankulam Nuclear Power Plant**, India, held as follows:

"36.1 This Court finds that in all these cases, the concerned courts have conducted mini-trials at the stage of numbering the suit which is, ex facie, inconsistent with the parameters set out supra. Consequently, CRP (MD) Nos. 915, 967, 991 and 330 of 2020 are allowed and the orders under challenge are set aside. The respective trial courts shall now number the plaint before it and proceed to dispose of the suits in accordance with law."

In view of the above, the objection raised by this Honourable Court dated 29-01-2026 is duly explained.

Hence, the Claim Petition is re-presented."

10. On such representation, the learned Court again returned on 13.02.2026, on the following objections:

"Returned: 13.02 2026

- 1) Explain as to how the **petitioners can maintain this petition at this stage.**
- 2) **Authenticated documents pertaining to schedule property be secured and filled.**
- 3) **Document disclosing relationship of the petitioners with respondents 3 and 4 be filed.**

14) Explain as to how the petitioners **can file the present petition in the absence of filing a suit for partition against their father in the absence of making a demand to that effect**”

11. Learned counsel for the petitioners submitted that the return of the claim petition at the stage of numbering on the objections raised is clearly unsustainable and suffers from gross non-application of mind. The office objections were not in consonance with the provisions of Order XXI Rule 58 C.P.C. under which there are only two conditions, where the claim shall not be entertained by the Court and that is when the property attached is already sold or when the Court considers that it causes unnecessary delay. Whereas, the objections dated 20.01.2026, 29.01.2026 and 13.02.2026 have not been of those specified nature of objections.

12. Learned counsel further submitted that the registration of an application/claim petition is a ministerial act and at this stage, the Court ought not to have, asked for the facts as required in the objections to be proved or established, as the exercise at this stage of registration is only the administrative power and not the exercise of judicial power.

13. Learned counsel for the petitioner further submitted that it is very strange that each time when the claim petition was presented and represented, different kinds of objections were raised. If the claim petition suffered from the objections, then all those objections should have been noted at the one and same time. Raising one objection returning the claim petition and when the petitioner resubmits complying with the same, then raising another objection

and when the petitioner complied with the second objection also and resubmitted, then raising so many objections for the third time and returning the claim petition without registering is not only unjustified, but also is causing damage or violating the petitioners' valuable rights in the subject property for which the auction proceedings are going to be taken in execution of decree.

14. Learned counsel for the petitioners submitted that the learned court at the time of registration of the claim petition is not complying with the directions of this Court as issued in C.R.P.No.1841 of 2024, decided on 10.01.2025 in the case of ***Gorripati Veera Venkata Rao v. Ethalapaka Vanaja¹*** rather is acting contrary to those directions causing unnecessary prejudice to the claim of the petitioners without the claim being registered.

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

16. This Court dispense with the issuance of notice to the respondents/decreed holders as also to the judgment debtors for the reason that, it is at the stage of numbering and registration of the claim petition which was returned thrice without registering it. Such return is a matter between the claim petitioners and the Court of X Additional District & Sessions Judge, Anakapalli at the stage of registration. This Court is only examining such return and not numbering the claim petition to be justified or otherwise. To consider such question, there is no necessity to afford an opportunity of hearing to the

¹ 2025 SCC OnLine AP 50

respondent at this stage. At the stage of registration, the respondents have no right of hearing. It is only after registration of the claim petition that they may have right of hearing either as caveator or after issuance of the notice/summons of hearing.

17. In ***Gorripati Veera Venkata Rao*** (supra), this Court in almost similar situation and of the same District, when the grievance was raised with respect to the non-registration of the plaint presented which was returned raising various objections at the stage of registration beyond the scope of the permissible objections under the C.P.C or Civil rules of Practice, on detailed consideration of different aspects as also the various judicial pronouncements, summed up in para No.50 of the said judgment which is as follows:

“50. All the rules of procedure are handmaid of justice. Procedural law is always subservient to and is in aid to justice and not an obstruction. **To restrict the litigant seeking for justice at the entry point, the stage of registration and numbering of the plaint, by raising the objections not provided or contemplated by the provisions of the Code of Civil Procedure or/and the A.P. Civil Rules of Practice and Circular Order, 1980, or such objections which are required to be decided on the judicial side and based on such objections not to register or number the plaint and return the same again and again, results in keeping such person away from the Court, which certainly results in delaying dispensation of justice. Many** complaints may accompany the applications for grant of temporary injunction or grant for relief of urgent nature. The Registry must not be oblivious of such aspect. It must be vigilant to protect the rights of the litigants to have access to justice, knocking the doors of the court at the stage of numbering/registration. It shall ensure, not to insist compliance with such objections, which are not contemplated by the Code of Civil Procedure or Civil Rules of Practice, at the stage of registration

of plaint or which the registry in the discharge of its ministerial function has to consider. Even if the objections have the backing of the rules and there is non-compliance, the plaint should not be returned, frequently, to comply with the objections, in spite of re-submission with the reply. Registry, with the objections and note/reply, should place the matter before the Court for consideration and appropriate orders. The court has the power to dispense with or grant time to comply with the procedural requirements and at the same time, in appropriate cases, where justice so demands, to pass appropriate orders safeguarding the interest of the persons approaching the court.”

18. In ***Gorripati Veera Venkata Rao (supra)***, the C.R.P was allowed with direction to the Registry of the Court concerned to register the plaint and place the same before the Court concerned on the judicial side. Direction was also issued to all the learned Principal District Judges of all the Districts in the State of Andhra Pradesh to issue necessary directions at their end to their respective District Judiciary that while registering/numbering the plaint to specifically refer to the provisions under which such objection was raised, so as to enable the parties or their counsels to effectively deal with those objections. Paragraphs 51 to 55 are as follows:

“VIII. **Result:**

51. For all the aforesaid reasons, this civil revision petition is allowed with direction to the Registry of the Principal District Judge, Visakhapatnam, to register the plaint and place the same before the Court concerned.

52. The Registrar (Judicial), High Court of Andhra Pradesh shall ensure the return of the plaint filed with C.R.P to the petitioner’s counsel, duly keeping on record set thereof as per the procedure while returning the plaint.

53. Let a copy of this judgment be sent to all the learned Principal District Judges of all the Districts in the State of Andhra Pradesh.

54. The learned Principal District Judge(s) shall issue necessary directions to registry of their respective District Judiciary that while registering/numbering plaint, they shall, specifically refer to the provisions under which such objection is raised, so as to enable the parties or their counsels to effectively deal with such objections.

55. Registry is also directed to send a copy of this judgment to the Director, A.P. State Judicial Academy, Mangalagiri, Amaravati.”

19. In spite of the aforesaid directions, this Court finds that in the same District, again, different objections have been raised at different time of presentation and representation, i.e. entirely of different nature, from the objection raised for the first time and for the second time and for the third time and that too without referring to the provisions under which such objections were raised or pointing out the deficiencies or the defects relating to the objections raised referable to which provision of law.

20. Learned counsel for the petitioner submitted that the execution proceedings for execution of the decree are going on and the property in which the petitioners have their share has been attached in the execution proceedings. The third time objection was raised and because of the return of the claim petition, the claim of the petitioner is not being considered and the Execution Court is proceeding to execute the decree, in which date 22.04.2026 is fixed for sale proclamation.

21. It is a matter of concern and serious one that by such return of the claim petitions filed by the third parties in the execution petition at the stage of execution, the claims concerning the valuable right in the property are not

being considered and the claim petitioners' legitimate claims to the attached property raising grievances, are being deprived of right of hearing. The provision under Order 21 Rule 58 C.P.C. is with an object that even a person, who was not party to the proceedings between the decree holder and judgment debtor may get an opportunity at the stage of the execution, if he has some claim with respect to the properties sought to be executed in execution of the decree. Such claim petitions are to be tried as suit and all the questions relating to right, title or interest in the property attached are required to be adjudicated in terms of the provisions of Order 21, itself.

22. Rule 58 of Order XXI CPC confers a very valuable right. Such right cannot be taken away and the claim petitioners cannot be denied the opportunity of hearing of their claim by denying entry in the court by raising, at the stage of numbering, such different kinds of objections at different time and without any reference to the legal provisions.

23. Order 21 Rule 58 CPC reads as under:

'58. Adjudication of claims to, or objections to attachment of, property.

(1) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to adjudicate upon the claim or objection in accordance with the provisions herein contained:

Provided that no such claim or objection shall be entertained:

(a) where, before the claim is preferred or objection is made, the property attached has already been sold; or

(b) where the Court considers that the claim or objection was designedly or unnecessarily delayed.

(2) All questions (including questions relating to right, title or interest in the property attached) arising between the parties to a proceeding or their representatives under this rule and relevant to the adjudication of the claim or objection, shall be determined by the Court dealing with the claim or objection and not by a separate suit.

(3) Upon the determination of the questions referred to in sub-rule (2), the Court shall, in accordance with such determination:

(a) allow the claim or objection and release the property from attachment either wholly or to such extent as it thinks fit; or

(b) disallow the claim or objection; or

(c) continue the attachment subject to any mortgage, charge or other interest in favour of any person; or

(d) pass such order as in the circumstances of the case it deems fit.

(4) Where any claim or objection has been adjudicated upon under this rule, the order made thereon shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree.

(5) Where a claim or an objection is preferred and the Court, under the proviso to sub-rule (1), refuses to entertain it, the party against whom such order is made may institute a suit to establish the right which he claims to the property in dispute; but, subject to the result of such suit, if any, an order so refusing to entertain the claims or objection shall be conclusive”.

24. Submission of the learned counsel for the petitioners is that on the aforesaid two objections or any of those as in clause (a) and (b) of the proviso to sub-rule (1) the claim petition could not be entertained, but there is no such objection raised of the nature as contemplated in clauses (a) and (b) of the

proviso. So, the return of the claim petition at the stage of the registration is not justified. From perusal of the aforesaid provision, the submission of the learned counsel, appears to be not without force. It has got substance. So, for such cases where the objection is of the nature as under clauses (a) and/or (b) of the proviso to sub-rule (1) of Rule 58, the claim or objection shall not be entertained. In the present case, any such objection has not been raised to the entertainability of the claim petition.

25. But, this Court is not in agreement with the submission of the learned counsel for the petitioners that except those objections under Order XXI Rule 58, no other objection could be raised as aforesaid. This Court's view is that in addition to the objections as aforesaid in clauses (a) and/or (b), when a claim petition is presented objection can certainly be raised which are valid and which ought to be raised at the stage of registration, within the scope and parameters as laid down in the aforesaid case of ***Gorripati Veera Venkata Rao*** (supra) or supported by the provisions of the Code of Civil Procedure or the Rules of Procedure. But on re-presentation with explanation regarding the objections, if still the objection is maintained by the registry the matter should be placed on the judicial side for decision of the Court.

26. The objections as raised by the Court and noted above clearly show that, first time when the claim petition was submitted, it was returned raising two objections. The first objection was, *"how the claim petitioners are entitled to file the claim petition without having any right/title over the E.P schedule property and the second objection was the claim petitioners should file any*

documents to show their title and right with regard to E.P schedule property”.

The explanation was submitted by the claim petitioners, when it was represented on 23.01.2026. This Court is of the view, on seeing the objection that at the time of registering/numbering of the claim petition those objections could not be raised at all. At the time of registration the claimant cannot be asked to show the entitlement to file the claim petition nor to submit the documents to establish their title and right. It is after the registration on the judicial side the necessary exercise should be done. Not only this, as per the first objection, *prima facie*, finding has been recorded. The view has been expressed that the claim petitioners have no right or title over the E.P schedule property. A mini trial cannot be conducted at the stage of registration of the claim petition or a suit. As per the second objection, the documents were sought, to show the title and right with regard to the E.P schedule property. This is not the stage to ask for the documents to establish the title, which is to be seen on the judicial side after registration and numbering of the claim petition. The merits of the claim petition or the merit of the plaint to establish the case by filing the documents in support of the plaint averments or the claim petition to make out a case is not at the stage of numbering of the suit. At that stage, as already held in the case of ***Gorripati Veera Venkata Rao*** (supra), objections, which are required to be decided on the judicial side cannot be raised or if raised, those have to be decided after hearing on the judicial side and based on such objections, the claim petition or the plaint cannot be refused to be registered nor it cannot be returned again and again.

27. The objection raised for the second time on re-presentation of the claim petition dated 29.01.2026 as mentioned in para-8 supra, as also the objection raised for the third time on re-presentation of the claim petition by the petitioners on 03.02.2026, while returning the claim petition as mentioned in paragraph-10 supra and in particular objection Nos.1, 2, 3 and also 4 are not of such a nature which could be raised to return the claim petition. In any case even on those objections if the Registry was not satisfied the registration could not have been refused, rather after registration the claim petition should have been placed before the Court for decision on the judicial side.

28. With respect to the objection raised for the second time dated 29.01.2026 that "*the cause of action date is not mentioned with reference to attachment of schedule property*", the petitioners on re-presentation of the claim petition on 03.02.2026 submitted that "*The date of attachment is a matter of court record...*", as the Order of attachment was passed by the Court. This Court is also of the view that this was not such an objection as to return the claim petition. The claim petition was being filed in the pending EP and the date of attachment Order was on record as the same was passed by the Court.

29. The claim petitioners had also clearly submitted the explanation on re-presentation dated 03.02.2026 that "*If the office raises fresh objections in a piecemeal manner and the claim petitioners are compelled to explain each objection without the petition being numbered, and in the meantime if the schedule properties are auctioned, the rights and interests of the claim petitioners over the schedule properties would be seriously prejudiced and their*

civil rights would be adversely affected." The petitioners in the said explanation dated 03.02.2026 also referred to the judgment of the Madras High Court (Madurai Bench) in *Selvaraj v. Koodankulam Nuclear Power Plant, India*. Still the claim petition was again returned on 13.02.2026, endorsing four new office objections, referred in paragraph-10 supra.

30. In ***Gorripati Veera Venkata Rao*** (supra) specific direction was given that the court shall ensure not to insist compliance with such kinds of objections which are not contemplated by C.P.C or Civil Rules of Practice at the registration of the plaint in discharge of ministerial function. The direction was also issued that even if the objections have the backing of the rules and there is non-compliance with the requirement, the plaint could not be returned, frequently, to comply with the objections, instead of resubmission with the reply/explanation. The matter with the objections and the notes/reply should be placed before the Court for consideration and passing of appropriate orders on the judicial side.

31. In the administration and dispensation of justice, it is expected with the Registry or the Office of the Court before which the petition is presented, to adopt an approach which advances the cause of justice and not hampers it causing prejudice to the litigant and leaves him in a situation where he is not able to approach the Court for vindication of his grievances and in getting timely justice. The Registry needs to be sensitized in that regard as in spite of the judgment of this Court in ***Gorripati Veera Venkata Rao*** (supra) many such kinds of objections as have been raised in the present case, are still being

raised at the time of registration of the claim petition which are not being registered but returned, not only once but on many times and that too on different objections each and every time.

32. The Court observe that the Court of X Additional District and Sessions Judge, Anakapalli has returned the claim petition again and again without having due regard to the directions of this Court issued in ***Gorripati Veera Venkata Rao (supra)***, which is highly objectionable and to say less, is against all the canons of judicial discipline and judicial propriety.

Result:

33. In the result, the Civil Revision Petition is allowed, with a direction to the Court of X Additional District and Sessions Judge, Anakapalli to register the claim petition of the petitioners under Order 21 Rule 58 CPC, with further direction to the learned Principal District Judge, Visakhapatnam to ensure its registration and to place it before the Court concerned expeditiously to proceed further, in accordance with law.

34. The Registrar Judicial, High Court of Andhra Pradesh shall ensure the return of the original claim petition filed with the civil revision petition to the petitioners' counsel as per the procedure while returning the claim petition and also keeping on record a complete set thereof.

35. Copy of this judgment shall be sent to the Principal District Judge, Visakhapatnam to sensitize the Registry of the District Court and to take necessary and appropriate steps in terms of the directions issued in ***Gorripati Veera Venkata Rao (supra)*** as also the observations made in this judgment.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

Date: 30.04.2026
Pab/Dsr

Note:

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