

## M. Venkata Subbaiah Vs K. Chanchu Obaiah and Others

**Court:** Andhra Pradesh High Court

**Date of Decision:** July 11, 1995

**Acts Referred:** Civil Procedure Code, 1908 (CPC) â€” Order 6 Rule 17

**Citation:** (1995) 2 ALT 771

**Hon'ble Judges:** Y.V. Narayana, J

**Bench:** Single Bench

**Advocate:** Y.G. Krishnamurty, for the Appellant; M.V.S. Suresh Kumar, for the Respondent

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

Y.V. Narayana, J.

This petition is filed by the petitioner, who is not a party to the impugned order, to grant leave to prefer the C.R.P.

against the order in I.No.47 of 1994 dated 13-9-1994 passed by the Subordinate Judge, Kovur.

2. The brief facts of the case are as under: The respondents herein filed O.S. No. 530 of 1981 on the file of the District Munsif, Atmakur for

specific performance of a contract of sale in respect of the suit schedule property in pursuance of the sale agreement dated 15-6-1973 said to have

been executed by K. Pitchaiah. The suit was resisted by the defendants contending that the alleged agreement of sale was a forged one. An issue

was also framed in that regard which was found in favour of the plaintiffs and the suit was decreed. Against that the defendants preferred appeal

A.S. No. 4 of 1990 before the Subordinate Judge, Kovur. In that appeal the appellants 3 and 4 filed LA. No. 67 of 1994 under Order VI Rule

17 C.P.C. seeking amendment of the written statement by taking the plea of legal necessity. The respondents herein contested the said application.

The appellate Court after hearing the parties dismissed the said petition, holding that/the amendment sought for will cause prejudice to the

respondents.

3. Against that order, assailing the same as illegal and improper, the petitioner herein who is not a party to that application, filed the present

revision.

4. The learned Counsel for the petitioner contended that the amendment sought for would not cause any prejudice to the respondents as it only

introduces that the agreement of sale is not for the benefit of the estate nor for any legal necessity of the family. On the other hand the Counsel for

the respondents contended that the amendment, if allowed, would cause prejudice to the case of the respondents and it is only to fill up the lacuna

in the case. The Court below, after considering the entire material, held that the amendment would definitely cause prejudice to the case of the

respondents because there is already a finding given by the trial Court and the amendment sought for would dilute the other findings recorded by

the trial Court. Thus holding the Court below very rightly dismissed the said application. I see no grounds to grant leave to the petitioner, who is

not a party to the said petition, to file the civil revision petition. Leave rejected and the petition is dismissed. Consequently the C.R.P. (SR) No.

64932 of 1994 is rejected. No costs.