

**HIGH COURT OF ANDHRA PRADESH : AT AMARAVATI**

**MAIN CASE No: S.A.No.611 of 2023**

**PROCEEDING SHEET**

Sl. No.	DATE	ORDER	OFFICE NOTE
08.	27.11.2023	<p><b><u>Dr. KMR,J</u></b></p> <p><b><u>I.A.No.1 of 2023</u></b></p> <p>This application is filed to condone the delay of 104 days in representing the appeal.</p> <p>Heard.</p> <p>Considering the submissions and for the reasons stated in the accompanying affidavit filed in support of this application, the delay of 104 days in representing the appeal is condoned.</p> <p>Accordingly, I.A.No.1 of 2023 is ordered.</p> <p><b><u>Dr. KMR,J</u></b></p> <p><b><u>S.A.No.445 of 2022</u></b></p> <p>Heard Ms.Ayesha Azma, learned counsel for the Appellant.</p> <p>Considering the submissions of learned counsel for the appellant, the following substantial questions of law arise for consideration in the Second Appeal:</p> <p><b>1)</b> Whether the Judgment of the first appellate Court is vitiated as the first appellate Court failed to adhere to the provisions of O 41 R 31 C.P.C</p>	

		<p>which have been reiterated to be mandatory by Honble Supreme Court of India in the case of H.Siddiqui Vs A.Ramalingam reported in (2011) 4 SCC 240.</p> <p><b>2)</b> Whether the first appellate Court is right in allowing the first appeal by coming to a unreasonable conclusion that the Ex.A4 is a fraudulent sale deed merely because the appellant herein is a minor and he has no capacity to purchase the land, even though DW.2 admitted that she paid consideration on behalf of the appellant herein.</p> <p><b>3)</b> Whether the Judgment of first appellate Court is vitiated on the premise that, it didn't construct the premise in the premise of Section 8 of Hindu Succession Act?</p> <p><b>4)</b> Whether the first appellate Court vitiated in not considering the settled proposition of law that once the partition is affected through the registered document, yet again one of the parties cannot seek partition and the judgment of first appellate Court is marred for not at all contemplating upon Ex.A3 which is a registered partition suit between the plaintiff in the Original Suit and the D1?</p> <p><b>5)</b> Whether the first appellate Court is vitiated in not questioning the maintainability of the prayer sought by the respondent herein who filed the original suit for cancellation of Registered sale deed, Ex.A4 and the first</p>	
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		<p>appellate Court did not ponder on the aspect that, when the plaintiffs are ot signatories to the document they cannot seek cancellation but approach the remedy by way of suit for declaration?</p> <p><b>6)</b> Whether the judgment of the first appellate Court is vitiated on the premise that, it didn't cogitate on the aspect that, the D1 executed the sale deed in the favour of the appellant herein on 04.03.2006 and the same registered sale deed has been marked as Ex.A4 and since then the appellant herein is in the peaceful possession of the subject properties, but the respondents/appellants/plain-tiffs in the nerve questioned the genuineness of the title of appellant herein until 2012 with a malafide intention?</p> <p><b>ADMIT.</b></p> <p>Notice.</p> <p>Learned counsel for the appellant is permitted to take out personal notice to the respondents by RPAD and file proof of service in the Registry.</p> <p>Post the matter on 26.12.2023.</p> <p style="text-align: right;"><b>Dr. KMR,J</b></p> <p style="text-align: center;"><b><u>I.A.No.2 OF 2023</u></b></p> <p>Heard Ms.Ayesha Azma, learned counsel for the Appellant.</p> <p>In view of the submissions, there shall be interim stay of all further</p>	
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		<p>proceedings in the Judgment and decree dated 23.02.2023 in A.S.No.18 of 2019 on the file of VI Additional District Judge, Gooty, till the next date of hearing.</p> <p><b>Dr. KMR,J</b></p> <p>BMS</p>	
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