APHC010449282008

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

[3587]

TUESDAY,THE SIXTEENTH DAY OF JUNE TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

CIVIL MISCELLANEOUS APPEAL NO: 800/2008

Between:

1. NAMATHOTI @ BODDAPATI DEVA RANI, W/O.MANIKYA RAO R/O.GORANTLA VILLAGE, GUNTUR RURAL MNADAL & DISTRICT.

...APPELLANT

AND

1. NAMATHOTI MANIKYA RAO, S/o.late Prabhakara Rao R/o.Gorantla Village, Guntur Rural Mandal & District.

...RESPONDENT

Appeal Under Section_____against orders set aside the order dated 08.07.2007 passed by the Hon'ble II Addl.District Judge, Guntur in DOP No.252/2006

IA NO: 1 OF 2008(CMAMP 1778 OF 2008

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased stay the order dated 08.07.2007 passed by the Hon'ble II Addl. District Judge, Guntur in DOP No.252/2006 in the interest of justice

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to condone the delay of 1675

days in filing the application for a set aside the abatement Order against the Respondent No. 1 in CMA No. 800 of 2008 on the file of Hon'ble Court

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to set aside the abatement Order against the Respondent No. 1 in CMA No. 800 of 2008 on the file of Hon'ble Court

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to bring the Respondent No.2 and 3 herein as Respondents 2 and 3 of deceased sole Respondent in CMA No 800 of 2008 on the file of Honourable Court

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to condone the delay of 97 days in filing of restoration petition the CMA No. 800 of 2008 on the file of this Hon'ble Court and pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to restore the Civil Miscellaneous Appeal as well as Interlocutory applications by setting aside the default orders dt. 18-02-2025 in CMA No. 800 of 2008 and pass

Counsel for the Appellant:

1. RAJU GUBBALA

Counsel for the Respondent:

1. T Radha Rani

The Court made the following:

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

CIVIL MISCELLANEOUS APPEAL NO: 800/2008

ORDER: (*Per* Hon'ble Sri Justice D.Ramesh*)*

1. Heard the learned counsel for the appellant and the learned counsel for the respondents.

2. The present Civil Miscellaneous Appeal is filed aggrieved by the judgment and decree dated 08.07.2008 passed by the learned II Additional District Judge, Guntur, in D.O.P. No.22 of 2006, by which the trial Court allowed the petition and dissolved the marriage between the petitioner and the respondent, which had been solemnized on 14.02.2001.

3. During the pendency of the appeal, the sole respondent died. Thereafter, the appellant filed interlocutory applications seeking to bring on record the legal representatives, namely the daughters of the deceased respondent, and the said applications were allowed by this Court by order dated 23.10.2024.

4. The dispute involved in the present appeal pertains to the decree of dissolution of marriage between the parties. Though the sole respondent died during the pendency of the appeal, the

same cannot be said to have abated automatically. In view of the law laid down by the Hon'ble Supreme Court in *Yallawwa v. Shantavva*, (1997) 11 SCC 159, an appeal against a decree of divorce survives even after the death of one of the parties, particularly when its adjudication has a direct bearing on the status of the parties and the consequential rights flowing therefrom.

5. The learned counsel appearing for the respondents/legal representatives fairly submitted that they have no objection if the decree granting dissolution of marriage is set aside.

6. Having regard to the submissions advanced by the learned counsel appearing on both sides and without going into the merits of the matter, this Court is inclined to allow the appeal. Accordingly, the Civil Miscellaneous Appeal is allowed and the judgment and decree dated 08.07.2008 passed by the learned II Additional District Judge, Guntur, in D.O.P. No.22 of 2006, whereby a decree of dissolution of marriage was granted, are hereby set aside. There shall be no order as to costs.

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

JUSTICE D.RAMESH

JUSTICE BALAJI MEDAMALLI

Date: 16.06.2026
klk

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION No.800 of 2008

Dated: 16.06.2026

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