

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

CRP.No.5075 of 2014

Between:

M.Rajamani Reddy and four others

... Petitioner (s)

and

V.Subbamma @ Desa Subbamma (died) and nine others

... Respondent(s)

DATE OF JUDGMENT PRONOUNCED: ***07th August, 2015.***

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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| 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 Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5075 of 2014

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.19.11.2014 in I.A.No.1249 of 2012 in O.S.No.1006 of 2002 of the Principal Junior Civil Judge, Tirupathi.

2. The petitioners herein are defendants 9 to 13 in the above suit.

The sole plaintiff in the said suit died on 20.04.2012. The 2nd respondent filed I.A.No.1249 of 2012 under Order XXII Rule 3 CPC contending that the deceased-plaintiff is her mother and she is her only class-I legal heir and she may be brought on record as 2nd plaintiff in the suit as legal representative of her deceased-mother and sought for the consequential amendments as indicated in the affidavit filed in support of the said application as required under Rule 28 of Civil Rules of Practice.

3. Counter affidavit was filed by 1st petitioner opposing this application denying that the 2nd respondent is the legal heir of the deceased sole-plaintiff and contending that the deceased sole-plaintiff, during her life time, had executed a Will in favour of her grand daughters and grand son and that the deceased had in fact two daughters. He also raised a contention that consequential amendments contemplated under Rules 28 and 29 of Civil Rules of Practice are not indicated by the 2nd respondent in her affidavit and in the petition.

4. By order dt.19.11.2014 the Court below allowed the said I.A. It held that deceased sole-plaintiff in her cross-examination itself admitted that 2nd respondent is her only daughter. It rejected the contention of the petitioners that the 2nd respondent is not the only daughter and that the deceased-plaintiff had two daughters. It also rejected the contention of the petitioners that there is a Will executed by the deceased-plaintiff in favour of her grand sons, since no such document is produced by them to prove the said contention. It further held that the application filed by the petitioner indicates that both the Rules 28 and 29 of the Civil Rules of Practice are complied with. It pointed out that the 2nd respondent, while trying to come on record as legal representative of deceased-plaintiff, has not sought any specific relief afresh and merely wanted to step into the shoes of the deceased-

plaintiff and had she proposed and had she prayed for a fresh relief, then only consequential amendments are required to be shown.

5. Challenging the said order, this Revision is filed.

6. Heard Sri K.Bathi Reddy, Counsel for the petitioners and Sri J.Ugranarasimha, Counsel for the 2nd respondent.

7. Counsel for the petitioners contends that Rule 29 of the Civil Rules of Practice directs that if a party dies pending suit, a note to that effect has to be added against the name of that party, that necessary and consequential amendment in the body of the suit is to be made and that this rule is mandatory. He contended that since the 2nd respondent in her application has not sought for any amendment in the body of the pleadings although she had indicated the amendment to be carried out in the cause title to the plaint, the Court below should have dismissed the said application.

8. I am unable to agree with the said submissions. As rightly observed by the Court below consequential amendment in the body of the pleadings would be required to be made only if the 2nd respondent seeks a different relief in the suit or if she wants some further amendments in the body of the pleadings to be made. When she has not shown any inclination either to claim a different relief or to include something more or less in the body of the pleadings, it cannot be said that Rule 29, requiring amendment in the body of the pleadings, has not been complied with and that the application itself has to be dismissed on the said ground.

9. I therefore did not find any merits in this Civil Revision Petition and is accordingly dismissed. There shall be no order as to costs.

10. Consequently, Miscellaneous Petitions pending if any shall

stand closed.

M.S.RAMACHANDRA RAO, J

07th August, 2015
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