

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.5611 of 2015
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ORDER:

The proposed plaintiffs 17 to 23 in O.S. No.39/2008 on the file of the Court of the learned V Additional District Judge, Rayachoty, filed the present Civil Revision Petition against the order passed in I.A. No.378/2014 dated 12.09.2014.

The petitioners herein filed the said I.A. stating that consequent to death of second plaintiff on 27.04.2014, they, being legal representatives are entitled to come on record. A counter was filed pointing out the discrepancies in the application and in view of the same, the respondents prayed for dismissal of the application.

The said application was dismissed by order dated 12.09.2014 holding as follows:

“At the outset, on appraisal of the cause title in the above suit O.S. No.39/2008, the age of deceased 2nd plaintiff namely Shaik Syed Sab son of Fakeer Sab, is mentioned as 42 years. But as seen from the petition mentioned cause title, the age of proposed persons who are said to be the legal heirs of deceased 2nd plaintiff is mentioned as 48 years, 45 years, 42 years, 39 years, 38 years, 37 years and 35 years respectively and as such how could it be possible for a person whose age about 42 years can have issues at the ages of like as referred above, which is highly impossible and devoid of truth and un-natural. Moreover, the petitioner having notice and knowledge about the age particulars of proposed petition mentioned persons, who said to be the legal representatives of deceased 2nd plaintiff. But they did not choose to take steps or to put forth before the Court satisfactory explanation with regard to above discrepancy for the reasons best known to the petitioners, but on the other hand an adverse inference can safely be drawn against the petitioners that they have not come to the Court with clean hands in order to substantiate their claim as prayed in the instant petition and as a necessary corollary the Court is constrained to dismiss the petition.”

If the petitioners are really the legal representatives of the deceased second plaintiff, they should have taken appropriate steps for rectifying the mistakes, pointed out by the defendants in their counter. Instead, they pursued the matter with those defects, which resulted in passing the impugned order. In view of the errors contained in the application, the impugned order passed by the trial Court cannot be held to be bad. But, in view of the claim of petitioners/proposed plaintiffs to come on record as legal representatives, they are permitted to file appropriate application, for which purpose the matter is remanded to the Court below by setting aside the impugned order dated 12.09.2014. The petitioners are given one-month time to file appropriate application, and the Court below shall give an opportunity to defendants to file their counter, and thereafter pass appropriate order.

The Civil Revision Petition is allowed to the extent as indicated above. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

02.12.2015
MVA

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Date: 02.12.2015

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