

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

C.R.P. Nos. 2891 AND 2901 OF 2014

COMMON ORDER:

Since the petitioners and the respondent/proposed party are parties in both the Revisions and the same issue arises for consideration in both the cases, they are being disposed of by this common order.

2. These two revisions are filed challenging the orders dt.07.07.2014 in I.A.No.181 of 2013 in O.S.No.1242 of 2001 and I.A.No.180 of 2013 in O.S.No.160 of 2002 on the file of the II Additional Junior Civil Judge, Chittoor.

3. Both the suits were filed by one P.Sarojamma against the Government of A.P., rep. by District Collector, Chittoor District, Mandal Revenue Officer, Chittoor and others for declaration of her title to the plaint schedule properties and for a perpetual injunction restraining the defendants from interfering with her peaceful possession and enjoyment of the plaint schedule properties.

4. She died on 03.12.2012 without leaving any Class-I heirs.

5. The 2nd petitioner claims to be the adopted son of the deceased-plaintiff in both suits.

6. One L.Indumathi, who is 2nd respondent in CRP No.2901 of 2014 and 5th respondent in CRP No.2891 of 2014 filed applications in I.A.No.180 of 2013 in OS.No.160 of 2002 and I.A.No.181 of 2013 in OS.No.1242 of 2001 to implead her as the 3rd plaintiff in both suits. She alleged that she is a Class-II heir of the deceased-plaintiff and under the provisions of Section 15 of the Hindu Succession Act, 1956, she claims that she inherited the property

along with her two sisters and the 2nd petitioner, who is her natural brother. She also contended that the 2nd petitioner herein is wrongly claiming to be the sole legal heir of the deceased-plaintiff basing on certain fabricated documents.

7. Counter-affidavit is filed by the 2nd petitioner herein opposing the applications. He contended that there was a bitter enmity between the deceased-plaintiff and himself on one side, with the proposed party and her husband on the other side, and contended that under a Will executed by the deceased-plaintiff, he is the sole heir to the properties and the proposed party cannot be impleaded.

8. By separate orders dt.07.07.2014, the Court below allowed both the I.As. It held that a family member certificate had been produced by the proposed party and that the proposed party is also disputing the claim of the 2nd petitioner that he is the sole legal representative of the deceased-plaintiff and disputing the Will set up by him and therefore, she should be allowed to come on record as the 3rd plaintiff in both the suits.

9. Challenging the same, these Revisions are filed.

10. Heard Sri M.Vidya SAgar, Counsel for the petitioner and Sri T.V.Sridevi, Counsel for the proposed party.

11. Counsel for the petitioner contended that the impleaded party L.Indumathi is his own natural sister and she cannot get herself impleaded in the suit and cannot oppose his claim, particularly, when he is claiming to be the sole legal heir of the deceased-plaintiff under a Will executed by deceased plaintiff. He, therefore, contended that the orders passed by the Court below be set aside.

12. Counsel for the respondent/proposed party opposed the said contentions and pointed out that any *inter-se* dispute between the 2nd petitioner and impleaded party cannot be adjudicated in these suits, and since impleadment is sought by Smt L.Indumathi on the ground that estate of the deceased-plaintiff should be represented, to that limited extent, her impleadment cannot be challenged by 2nd petitioner.

13. Admittedly, the suits in question have been filed by the deceased-plaintiff Smt P.Sarojamma against the State and other persons for a perpetual injunction restraining them from interfering with her peaceful possession and enjoyment of the plaint schedule properties. After she died, the suits would normally abate, if her estate was not allowed to be represented in the suits. Since it is not disputed by the 2nd petitioner that Smt L.Indumathi is the daughter of the sister of the deceased-P.Sarojamma, she is a Class-II heir of the deceased and so would be the 2nd petitioner.

However, the 2nd petitioner is seeking to contend that he is the sole legal heir on the basis of a Will executed by the deceased-plaintiff, which is being disputed by Smt L.Indumathi, who contends that it is a fabricated document. In my opinion, the validity of the Will cannot be adjudicated in these proceedings and it is open to the 2nd petitioner to take appropriate proceedings to establish the said document and claim that he is the sole legal heir of the deceased-P.Sarojamma.

14. In this view of the matter, I do not find any merits in these Revisions. They are accordingly dismissed. It is made clear that Smt L.Indumathi is impleaded as 3rd plaintiff in both the suits only

for the limited purpose of representing the estate of the deceased-
P.Sarojamma and that the *inter-se* claim between the 2nd
petitioner and Smt L.Indumathi would be outside the scope of the
suit and cannot be decided in the suit. There shall be no order as
to costs.

15. Consequently, miscellaneous petitions pending, if any, shall
stand dismissed.

M.S.RAMACHANDRA RAO, J

03rd July, 2015.
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