

The Hon'ble Sri Justice M.S.Ramachandra Rao

Civil Revision Petition No.197 of 2015

Dated 30.10.2015

Order:

1. This Civil Revision Petition is filed challenging Order, dated 08-09-2014, in IA.No.737 of 2014 in OS.No.13 of 2012, on the file of the II Additional District Judge's Court, Karimnagar at Jagtial.

2. The petitioners herein are defendants in the suit. The first respondent herein had filed the said suit against the petitioners for declaration of title to the suit schedule property and for a direction to the petitioners to remove the structure erected by them by way of mandatory injunction. She also sought for a declaration that certain documents mentioned therein are not binding on her.

3. The first respondent died on 13-11-2012. Claiming that a will was executed in favour of the second respondent on 03-04-2012 by the first respondent, the second respondent wanted to come on record and filed IA.1893 of 2013 in November, 2012 for the said purpose.

4. Before IA.No.1893 of 2013 could be decided, the second respondent died on 20-04-2014. In view of this event, the legal representatives of the second respondent filed IA.No.737 of 2014 and wanted to be brought on record as her legal representatives in IA.No.1893 of 2013 as otherwise the said IA would have to be dismissed as abated.

5. A counter-affidavit was filed to this IA by the petitioners opposing the impleadment of the legal heirs of the second respondent. It was

disputed that the applicants in IA.No.737 of 2014 were the legal heirs of the first respondent even if they are legal heirs of the second respondent.

6. By Order dated 08-10-2014, the Court below allowed the said IA stating that the plea of the petitioners could be gone into at the time of disposal of IA.No.1893 of 2013, but not at this stage because unless the petitioners in IA.No.737 of 2014 are impleaded in IA.No.1893 of 2013, the latter IA could not be prosecuted.

7. Although the learned Counsel for the petitioner sought to contend that without first deciding IA.No.1893 of 2013, IA.No.737 of 2014 cannot be decided, I am of the opinion that the said contention cannot be accepted. This is because since the second respondent, who alone had filed IA.No.1893 of 2013, had died, unless her legal representatives are impleaded in IA.No.1893 of 2013 in the first instance, IA.No.1893 of 2013 would abate. Therefore, the Court below was right in allowing IA.No.737 of 2014 while recording that the contentions of the petitioner will be decided at the time of disposal of IA.No.1893 of 2013. I therefore do not find any merit in the Civil Revision Petition and the same is, accordingly, dismissed. There shall be no order as to costs.

8. As a sequel to dismissal of the Civil Revision Petition, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(M.S.Ramachandra Rao, J)

Dt: 30th October, 2015

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