

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.4883 of 2013

-
Dated 23.01.2015
-

Between:

Sirigini Veeraiah (died per LR)
S.Mallaiah and another

...Petitioners

And

Smt.K.Venkayamma

...Respondent

**Counsel for the petitioners: Mr.A.Ravinder
Reddy**

Counsel for the respondent: ---

The Court made the following:

Order:

This Civil Revision Petition arises out of Order,
dated 02.09.2013, in IA.No.941 of 2005 in OS.No.482
of 1995, on the file of the Court of the learned Principal
Senior Civil Judge, Ranga Reddy District.

I have heard Mr.A.Ravinder Reddy, learned
Counsel for the petitioners, and perused the record.

The paternal uncle and the father of the petitioner have filed the above-mentioned suit against the respondent for cancellation of registered sale deed bearing No.1870/94 in respect of the suit schedule properties. Plaintiff No.1 died on 05-09-1999. The Counsel for the plaintiffs filed a memo on 08-09-1999 informing the Court about the death of the first plaintiff. The suit was adjourned to 13-10-1999 for taking steps to bring on record the legal representatives of plaintiff No.1. As steps were not taken, the case was again adjourned to 08-12-1999 and 02-02-2000. As no steps were taken even then, the case was further adjourned from time to time and on 05-09-2001, the suit was dismissed as abated.

The surviving plaintiff viz., plaintiff No.2 has filed IA.No.941 of 2005 under Order IX Rule 9 of the Code of Civil Procedure, 1908 (CPC) for setting aside the dismissal order, dated 05-09-2001. During the pendency of the said IA, the second plaintiff also died and the petitioner has come on record as his legal representative. By Order, dated 02-09-2013, the lower Court has dismissed the said IA.

In support of the IA, plaintiff No.2 has filed an affidavit wherein he has stated that due to the death of his brother, he has suffered serious mental agony and

has lost his memory and that therefore, he could not file the application for setting aside the dismissal order within time.

On a careful consideration of the explanation offered by plaintiff No.2, this Court is of the opinion that the same is not sufficient to condone the huge delay of 1600 days. In the first place, having filed a memo informing the Court regarding the death of plaintiff No.1, plaintiff No.2 has failed to bring on record the legal representatives of the deceased Plaintiff No.1. Secondly, atleast after dismissal of the suit on 05-09-2001, plaintiff No.2 has failed to show any diligence whatsoever to file an application for setting aside the dismissal order within a reasonable time. Having allowed 1600 days to lapse, plaintiff No.2 has filed IA.No.941 of 2005, which was rightly dismissed by the lower Court on the ground that the explanation offered for condonation of such huge delay is wholly unconvincing.

For the abovementioned reasons, I do not find any merit in this Civil Revision Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6699 of 2013 is dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 23rd January, 2015
LUR