

HON'BLE SRI JUSTICE B. CHANDRA KUMAR

(FOR BEING MENTIONED)

Rev. ASMP No.2797 of 2012 in AS No.2189 of 1998 & AS No.2189 of
1998

ORDER ::

AS No.2189 of 1998 was allowed by judgment dated 01-10-2012 by this Court and the impugned judgment and decree in suit OS No.83 of 1987 was set aside and remanded the matter to the lower Court to dispose of the same in accordance with law within a timeframe. Subsequently, the plaintiff-1st respondent in the appeal filed Rev.ASMP No.2797 of 2012 seeking to review the judgment dated 01-10-2012 passed in appeal AS No.2189 of 1998 and to issue direction to the lower Court to proceed with the suit in terms of Order XLI, Rule 25 CPC and this Court by order dated 07-11-2013 allowed the said review petition. However, pursuant to the order dated 07-11-2013 in review petition, learned Addl. Senior Civil Judge, Eluru, addressed a letter dated 10-01-2014 to the registry wherein it is stated that in pursuance of the judgment dated 01-10-2012 passed in the appeal, notices were issued to both the parties in the suit and when the matter was coming up for taking further steps, it was informed to the Court that plaintiff died on 06-12-2013. It is stated that the Court below ordered for taking steps to bring the LRs of the plaintiff on record and accordingly the LRs of the plaintiff filed an application seeking to come on record as plaintiffs 2 and 3 in the main suit vide IA No.676 of 2013. It is stated that in the said petition notices were ordered

to the other side. As the proposed parties failed to pay batta, ultimately the petition was dismissed for default on 28-3-2013 and in view of the orders in IA No.676 of 2013, the main suit OS No.83 of 1987 was also dismissed for default on 28-03-2013 itself. It is stated that the LR's of the plaintiff have not filed any application either to restore the suit or to restore the IA. and therefore, it is brought to the notice of this Court that it is not possible to proceed further in the matter pursuant to the orders of this Court in Rev.ASMP No.2797 of 2012, as the suit itself was dismissed for default on 28-03-2013.

2. In the above circumstances, it is clarified that if any applications are filed by the LR's of the plaintiff to come on record and other applications as may be required to condone the delay in filing the applications to restore the suit or to restore the suit etc., the lower Court is directed to issue notices to the other side and give opportunity to them to file counter and after hearing both the parties, pass orders in accordance with law. If the suit is restored, the same should be disposed of in accordance with the orders of this Court dated 07-11-2013, Rev. ASMP No.2797 of 2012.

3. Sri Y. Hema Chander, learned counsel for the 3rd defendant submits that he has filed certain documents in this Court including a Will and they are required to be considered by the Court below. If such is the case, it is open for the 3rd defendant to file an application before the Court below to summon the required documents filed in this Court to the lower

Court and the lower Court may pass appropriate orders on such application.

B. CHANDRA KUMAR,J

Dated: 17-02-2014
NRG

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