

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION NO.4758 OF 2015

ORDER:

This revision petition is filed by the petitioner against the order, dt.06.03.2015 passed in I.A.No.12 of 2014 in L.A.O.P.No.5196 of 1991 on the file of the Senior Civil Judge, Nandikotkur, dismissing the application filed by the petitioner under Section 152 of C.P.C., praying the court below to amend the cause title in the decree and judgment dt.16.02.2008 in L.A.O.P.No.5196 of 1991.

The case of the petitioner is that L.A.O.P.No.5196 of 1991 was numbered in pursuance to the reference under Section 18 of the Land Acquisition Act. The son of the petitioner was shown as N.B.Mallikarjuna Reddy. During the pendency of the above said O.P., N.B.Mallikarjuna Reddy passed away on 23.05.1993. Thereafter, the petitioner, who is the mother of the deceased N.B.mallikarjuna Reddy filed I.A.No.112 of 2007 under Order 22 Rule 4 of C.P.C., for bringing her as legal heir of her son N.B.Mallikarjuna Reddy and the same was allowed by the court below on 08.08.2007. Though the said I.A. was allowed, while drafting the decree and

judgment in L.A.O.P.No.5196 of 1991, dt.16.02.2008, in the cause title, the petitioner was wrongly shown as 'wife of' deceased N.B.Mallikarjuna Reddy instead of showing her as 'mother of' N.B.Mallikarjuna Reddy, as legal heir of the deceased. Thereafter, the petitioner filed E.P.No.62 of 2008 for execution of decree mentioning her name as N.B.Ramalingamma, wife of late N.B.Mallikarjuna Reddy instead of Ramasubba Reddy. The said E.P. was closed with a liberty to the petitioner to file a memo for restoration of E.P., subject to the result in the writ petition in W.P.No.2182 of 2009. Again the petitioner filed a cheque petition in E.A.No.96 of 2014 in E.P.No.31 of 2014 in L.A.O.P.No.5196 of 1991 for issuance of a cheque for Rs.2,56,999/- by mentioning her name as N.B.Ramalingamma, wife of late N.B.Mallikarjuna Reddy. When the court below raised an objection, the petitioner filed I.A.No.12 of 2014 for rectifying the said mistake crept in the cause title of the decree and judgment passed in L.A.O.P.No.5196 of 1991, dt.16.02.2008. The court below dismissed the said application on the ground that the petitioner and others filed W.P.No.2182 of 2009 before this Court and since the writ petition is pending adjudication, it has no jurisdiction to amend the cause title in the decree and judgment

in L.A.O.P.No.5691 of 1991.

The learned counsel for the petitioner submits that filing of W.P.No.2182 of 2009 has nothing to do with the amendment of cause title in the decree and judgment passed by the court below in L.A.O.P.No.5196 of 1991, since E.P.No.62 of 2008 filed for execution of decree was already closed with a liberty to the respondent to file a memo for restoration of E.P., subject to the result in W.P.No.2182 of 2009.

It has to be seen that I.A.No.112 of 2007 is filed under Order 22 Rule 4 of C.P.C., to bring the petitioner on record as legal heir of the deceased N.B.Mallikarjuna Reddy and in the said order the petitioner is shown as wife of B.Rama Subba Reddy. While drafting the decree and judgment in L.A.O.P.No.5196 of 1991, in the cause title, the petitioner was wrongly shown as 'wife of' N.B.Mallikarjuna Reddy, instead of 'mother of' deceased N.B.Mallikarjuna Reddy. This is a mistake committed by the court below. The petitioner has rightly filed I.A.No.12 of 2014 in O.P.No.5196 of 19912 under Section 152 of C.P.C., for rectifying the said mistake. The trial court instead of rectifying the said mistake committed by it, dismissed the said application filed by the petitioner, without application of mind. For the mistake committed by the court below, the party

has to approach this court by filing this revision petition.

In view of above facts and circumstances, the order dt.06.03.2015 of the Senior Civil Judge, Nandikotkur dismissing the application in I.A.No.12 of 2014 in L.A.O.P.No.5196 of 1991 is set aside and I.A.No.12 of 2014 is allowed.

Accordingly, the revision petition is allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY J.,

Dt.18.11.2015
TJS

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

-
CIVIL REVISION PETITION NO.4758 OF 2015

-

Dt.18.11.2015