

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Civil Revision Petition No.5016 of 2014

Order:

This Civil Revision Petition is filed by the judgment debtor in O.S.No.334 of 2006 on the file of the Principal Junior Civil Judge, Avanigadda, aggrieved by the order dated 16.10.2014 passed in E.A.No.220 of 2014 in E.P.No.62 of 2012.

The suit, which is filed by the 1st respondent (since deceased) against the petitioner for recovery of money, is decreed. During his lifetime, the 1st respondent has filed E.P.No.62 of 2012. After his demise, the 2nd respondent, who is his wife, filed application to come on record as legal representative of the 1st respondent-decree holder in the execution proceedings. The same is allowed by the impugned order.

Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

It is contended by the learned counsel for the petitioner that, though the 2nd respondent is claiming to come on record as legal representative of the 1st respondent-deceased, basing on the will alleged to have been executed by the 1st respondent-deceased, unless there is succession certificate in her favour, she is not entitled to come on record. In support thereof, he relies on a judgment of a learned single Judge of this Court in **Kotipalli Apparao v. Jakkam Venkanna**^[1].

On the other hand, it is submitted by the learned counsel for the 2nd respondent that, 2nd respondent, being the wife of the 1st respondent-deceased and Class I heir, is entitled to come on record. It is further submitted that the aforesaid judgment, relied on by the learned counsel for the petitioner, cannot be applied to the present case, having regard to the fact that the 1st respondent-deceased himself has filed execution petition – E.P.No.62 of 2012, during his lifetime and 2nd respondent has filed application in the E.P. In support

thereof, he relies on a judgment of a learned single Judge of this Court in **K. Janamma v. N. Anantha Reddy**^[2].

Having heard the learned counsel for the parties, I have perused the affidavit filed in support of E.A.No.220 of 2014.

It is clear from the record that the 2nd respondent has filed application, i.e. E.A.No.220 of 2014 for coming on record as legal representative of the 1st respondent-deceased, in the execution proceedings – E.P.No.62 of 2012. The case of *Kotipalli Apparao* (1 *supra*), is a case where the original decree holder died before filing of execution petition. In the case on hand, the 1st respondent-deceased himself had filed execution petition and his wife wanted to come on record as his legal representative in execution proceedings. In *K. Janamma* (2 *supra*), the learned single Judge has clearly held that as much as the very decree holder therein has filed execution petition and died before executing the decree, his legal representatives are entitled to come on record without obtaining succession certificate as required under Section 214 of the Succession Act, 1925.

Having regard to the facts of the case on hand, the said judgment supports the case of the respondents herein. As it is not dispute that the 2nd respondent is the wife of the 1st respondent-deceased and is a

Class I heir, and, further the 1st respondent-deceased, who is the decree holder himself, has filed E.P.No.62 of 2012, I do not find any illegality in the impugned order which warrants interference in this Civil Revision Petition.

For the aforesaid reasons, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the C.R.P., stand closed.

R.SUBHASH REDDY, J

February 13, 2015
MRR

[\[1\]](#) **ANDHWR-1969-2-47**

[\[2\]](#) **2003 (2) APLJ 68 (SN)**