

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos. 3021 and 3329 of 2013

Common Order:

These two Civil Revision Petitions are being disposed of by this common order as the parties are common, but the suits are different.

2. Learned counsel appearing for the respondents 1 to 9, 11 and 12 submits that, though, no petition was filed by the counsel for the petitioner for impleading the legal heirs on record for the deceased 10th respondent, the respondents 1, 11, 12 and 13, who are already there on record, are the legal representatives and the same may be recorded. This is not disputed by the learned counsel for the petitioner. In view of the same, the said submission is recorded. It is also submitted that respondent No.13 is represented by separate counsel.

3. The fourth defendant in the suits is the petitioner in both the Civil Revision Petitions. OS No.139 of 1986 and OS No.63 of 1987 were filed by the original plaintiffs seeking permanent injunction in respect of the suit schedule property. The said suits were initially decreed, by a common judgment, dated 14.07.1994. Against the judgment and decree in OS No.63 of 1987, AS No.60 of 1995 was filed before the I Additional District Judge, Anantapur, whereas against the judgment and decree in OS No.139 of 1986, AS No.61 of 1995 was preferred before the same Court. AS No.60 of 1995 was allowed and the judgment and decree passed in OS No.63 of 1987, dated 14.07.1994, was set aside and the suit was remanded to the court of the Principal Senior Civil Judge, Anantapur, by a judgment and decree, dated 31.10.2006. A similar order of remand was passed on 31.10.2006 in another appeal being AS No.61 of 1995, which was preferred against the judgment and decree in OS No.139 of 1986. Pursuant to the orders passed by the learned I Additional District Judge, Anantapur,

the suits were taken up on 27.12.2006. On that day, the records of the lower Court have not come from the appellate Court, as a result of which, they were adjourned to 17.01.2007. On 17.01.2007, the suits were dismissed for default.

4. Now, there is a dispute with regard to the orders passed on 27.12.2006 and 17.01.2007 and with regard to issuance of notice to the parties before the trial Court. The plaintiffs claimed that they have no notice of the suit and it was found to be genuine in the present applications seeking condonation of delay of 1216 days and, accordingly, the applications were ordered. However, the order of remand passed by the learned I Additional District Judge, Anantapur, shows that the parties were directed to appear on 27.12.2006 and, in fact, if they had appeared on the said date, they would have known about the next date of hearing, in which event no separate notice is required.

5. The impugned orders passed by the learned Principal Senior Civil Judge, Anantapur, on 22.04.2013, are not clear on these aspects and, hence, this Court is constrained to set aside the orders, dated 22.04.2013, and remands the IA No.326 of 2010 in OS No.139 of 1986 and IA No.327 of 2010 in OS No.63 of 1987 for consideration afresh by the learned Principal Senior Civil Judge, Anantapur, by looking into the record and hearing the parties in the present applications.

6. Both the Civil Revision Petitions are, accordingly, allowed. Since these proceedings arise out of the suits of the years 1986 and 1987, the learned Principal Senior Civil Judge, Anantapur, shall dispose of the applications as expeditiously as possible, but not later than 30.04.2016. There shall be no order as to costs.

7. As a sequel thereto, the miscellaneous petitions, if any, pending in these Civil Revision Petitions shall stand closed.

A.
Date: 08.02.2016
Nsr

RAMALINGESWARA RAO, J.