

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.1567 of 2010

ORDER:

This revision filed by the plaintiffs in O.S.No.113 of 2007, on the file of the Court of the Principal Junior Civil Judge, Mangalagiri, Guntur District, assails a direction incorporated in the judgment dated 18.08.2009 made in the said suit asking the petitioners 2 to 4 herein to produce succession certificate for drafting the decree.

2. Initially, the husband of the second petitioner and the father of the petitioners 3 to 4, one Mr.Bommareddy Krishna Reddy instituted suit O.S.No.113 of 2007, on the file of the Court of the Principal Junior Civil Judge, Mangalagiri, against the respondent herein for recovery of amount on the foot of promissory note. Pending suit, the sole plaintiff Sri Bommareddy Krishna Reddy died on 01.11.2007, and thereafter, the petitioners 2 to 4 herein filed I.A.No.1387 of 2008 to come on record and the said I.A was allowed on 06.01.2009 and consequent to the same, petitioners 2 to 4 herein came on record as plaintiffs 2 to 4.

3. The learned Principal Junior Civil Judge, Mangalagiri decreed the suit on 18.08.2009, declaring that the plaintiffs 2 to 4 are entitled to recover the suit amount with costs and subsequent interest of 12% from the date of the suit till decree with further interest of 6% per annum thereafter till realization. In the said Judgment the learned Judge directed to draft the decree after filing necessary succession certificate by the plaintiffs 2 to 4, who are the petitioners herein. Aggrieved by the said direction for production of succession certificate, the present revision came to be filed.

4. At the time of hearing, it is brought to the notice of this Court that this issue is no longer *res integra* in view of the Judgment of this Court in the case of *S. SATHISH TRADERS AND OTHERS VS ANISETTI*

*ANJANEYULU*¹. In the said Judgment at paragraph 3, this Court held as under:

“3. Coming to the merits of the case, it is not in dispute that one Mr. Kolla Venkatarayudu, son of second petitioner, husband of third petitioner and father of fourth to seventh petitioners, filed a small cause suit for recovery of the monies on the basis of a kaatha account. During the pendency of the suit Kolla Venkatarayudu died on 24-2-1998 and all the petitioners got themselves impleaded as Legal Representatives of him. Thereafter the Court below has taken up the trial and decreed the suit. But, unfortunately, at the end of the judgment, it observed that the petitioners have to obtain succession certificate from the competent authority to get the decree executed. When the suit was tried in the presence of the Legal Representatives of late Sri Kolla Venkatarayudu and in the presence of the defendants, who owes monies to Kolla Venkatarayudu and no other person have set up any adverse interests to that of the petitioners herein for the suit claim, the Court has no option except to treat them as Legal Representatives of said Venkatarayudu, When the Court recognises them as Legal Representative of Late Sri Kolla Venkatarayudu, the question of obtaining any succession certificate, as directed by it, does not arise. The directions of the Court below to the extent of directing the petitioners to obtain succession certificates are set aside and the rest of the judgment stands good. It is open to the petitioners to execute the decree now.”

5. In view of the principle laid down in the above referred judgement, the direction for drafting the decree after production of the succession certificate by the plaintiffs 2 to 4 cannot be sustained in the eye of law. The direction of the Court below to the petitioners to produce succession certificate in the judgment dated in O.S.No.113 of 2007 is hereby set aside and the rest of the judgment stands good. The Court below shall draft the decree and thereafter it is open for the petitioners herein to execute the decree.

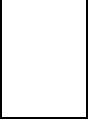
¹ 2000 (4) ALT 210

6. The Civil Revision Petition is allowed with the above directions. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:17.09.2016
grk





THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated: 17.09.2016

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