

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION Nos.4773 & 5071 of 2015

COMMON ORDER:

These two Civil Revision Petitions, under Section 115 of the Code of Civil Procedure, 1908 ('the Code', for brevity) are directed against the common order dated 29.06.2015 of the learned I Additional Senior Civil Judge, Nellore passed in I.A.nos.78 of 2012 and 79 of 2012. The petitioners herein are third parties to the suit O.S.No.810 of 2011 and an interlocutory application in I.A.No.1053 of 2011 in the said suit.

2. I have heard the submissions of the learned counsel for the petitioners in both these revision petitions and I have perused the material record.

3. The facts, as set out in the revision petitions and as per the submissions made at the hearing, in brief, are as follows:-

The first respondent herein/plaintiff ('the plaintiff', for brevity) brought the suit against the 2nd respondent herein/the defendant ('the defendant', for brevity) for recovery of money *inter alia* claiming that the defendant is the wife of late Jangam Prasad and that therefore, she is liable to discharge the debt contracted by her late husband. That suit was decreed *ex parte*. During the pendency of the suit, the plaintiff, having filed an interlocutory application in I.A.No.1053 of 2011, sought attachment of the death benefits of the said Jangam Prasad-the deceased husband of the defendant, which are lying with the 3rd respondent bank. On the date the suit was decreed, the interim attachment before judgment that was granted in that application was made absolute while allowing the said IA. However, during the pendency of the suit, the revision petitioners/third parties had filed the aforementioned two interlocutory applications viz., I.A.Nos.78 of 2012 and 79 of 2012 for their impleadment as respondents 2 and 3 in I.A.No.1053 of 2011 filed for attachment and as defendants 2 and 3 in the

original suit. However, without first disposing of the said two applications, the trial Court had disposed of the suit *ex parte*. Later, by the impugned common order, the said two interlocutory applications were dismissed. Aggrieved of the said common order, the present two revision petitions are filed by the 3rd parties/revision petitioners.

4. From the pleadings and the submissions now made at the hearing, it appears that the case of the revision petitioners is that the defendant has no relationship with the said late Jangam Prasad and that the present petitioners are the wife and the son of the said late Jangam Prasad and that they are only entitled to claim his death benefits and that the suit is a collusive suit. Be that as it may. The revision petitioners are not diligent and did not prosecute their petitions for impleadment when the suit was pending and also did not challenge the attachment order by any appropriate proceeding, though the attachment was made absolute as already mentioned. Since the suit as well as the interlocutory application filed for attachment are already disposed of on merits though on *ex parte* scale, the question of adding the petitioners as parties to the said disposed of proceedings does not arise for consideration.

5. Viewed thus, this Court finds that both these Civil Revision Petitions are misconceived and are not maintainable in the facts and circumstances of the case.

6. Accordingly, both the Civil Revision Petitions are dismissed. It is made clear that petitioners are at liberty, if they so choose and so desire, to initiate appropriate proceedings, which the law permits, before an appropriate forum and seek apposite reliefs in regard to the death benefits of the deceased Jangam Prasad lying with the 3rd respondent bank. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in both these Civil Revision Petitions, shall stand closed.

M.Seetharama Murthi, J

18th February, 2016
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