

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY  
AND  
HON'BLE SRI JUSTICE G.SHYAM PRASAD

CMA.No.1642 of 2008

Date:17.8.2016

**Between:**

Bollineni Sri Hari Rao,  
S/o Veeraswamy

**..... Appellant**

**And:**

Bollineni Veeraswamy,  
S/o Ramaiah and two others

**....Respondents**

Counsel for the appellant: Mr. Venkateswarlu Sanisetty

Counsel for respondent Nos.1 & 2: Mr. K.Manmmadha Rao  
Counsel for respondent No.5: Mr. G.Pedda Babu

The Court made the following:

**JUDGMENT:** *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Civil Miscellaneous Appeal arises out of order, dated 28.12.2005, in I.A.No.1483 of 2005 in O.S.No.32 of 2004 on the file of the learned District Judge, Ongole, whereby he has dismissed the said I.A. filed for setting aside the *ex parte* decree dated 23.9.2005, in O.S.No.32 of 2004.

A perusal of the record shows that notices on respondent Nos.3 and 4 have not been served.

At the hearing, Mr. G.Pedda Babu, learned counsel for respondent No.5, submitted that respondent Nos.3 and 4, who are daughters of the deceased-plaintiff, have relinquished their rights in favour of his client and that, therefore, they need not be heard. He has further submitted that respondent No.5, being the sole party pursuing the suit, asserting her rights independently as well as being the legal representative of the sole plaintiff, has no objection for setting aside the *ex parte* decree to enable the lower Court to decide the suit on merits.

Mr. K.Manmadha Rao, learned counsel for respondent Nos.1 and 2, also submitted that his client has no objection for setting aside the *ex parte* decree. He has, however, stated that as the suit is of the year 2004, the lower Court may be directed to dispose of the same expeditiously.

In the light of the above facts and the submissions of the learned counsel for respondent Nos.1, 2 and 5, the order, dated 28.12.2005, in I.A.No.1483 of 2005 in O.S.No.32 of 2004 is set aside. I.A.No.1483 of 2005 is allowed and the suit is restored to file. Respondent Nos.3 and 4 are left free to participate in the suit proceedings as the legal representatives of the deceased sole plaintiff. All the parties are also entitled to file their respective additional pleadings. Since the suit is of the year 2004, the lower Court is directed to dispose of the same within six months from the date of receipt of a copy of this order.

Subject to the above observations and directions, the Civil Miscellaneous Appeal is allowed.

---

JUSTICE C.V.NAGARJUNA  
REDDY

---

JUSTICE G.SHYAM PRASAD

*17<sup>th</sup> August 2016*  
*DR*