

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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CIVIL REVISION PETITION No.4058 of 2015

Between:

Pinapala Rupa Lakshmi and others.

....Petitioners

and

The Municipal Corporation of Vijayawada and others.

....Respondents

JUDGMENT PRONOUNCED ON : 03.02.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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ORDER:

The petitioners herein are the petitioners in S.O.P.No.30 of 2012 on the file of the learned III Additional Senior Civil Judge, Vijayawada. The said S.O.P was filed for Succession Certificate in their favour authorizing to receive the amount of Rs.5,48,822/- lying in the hands of the first respondent. The first petitioner was examined as P.W.1. She also filed I.A.No.317 of 2015 seeking condonation of delay in filing the documents issued by the Election Commission of India and the said application was allowed. Later on, she filed I.A.No.189 of 2015 to amend her original petition by replacing the name of Pinapala Rambabu by Pinapala Sundara Rao, as husband of the second respondent, and the age as 66 years instead of 45 years. The affidavit filed in support of the application did not indicate any reason for making such amendment, and it reads as follows:

“I have filed the present petition against the Respondents. The original petition is filed for Succession. The Petitioners filed in the original petition may be read as part and parcel of this affidavit.

I further submit that it requires an amendment of the petition for seeking the remedy of Succession Certificate. It is therefore, necessary that the following amendments in the petition may be permitted to be made.

The following information has to be inserted in 2nd Respondent address i.e. Pinapala Sundara Rao inserted in the place of “Pinapala Rambabu”, aged 66 years inserted in the place of “45 years” and address Door No.30-76, Nandigama, Krishna District inserted in the place of “Vijayawada”.

A detailed counter affidavit was filed by placing reliance on several

decisions and opposing the said application. The application of the petitioners was ultimately dismissed on 25.08.2015 with the following observations:

“In the present case, the contention of the petitioners is that respondents 2 and 3 have no connection with the deceased Rambabu, as such, they are not entitled to claim any relief or death benefits of the deceased. In the cause title, they have mentioned the 2nd respondent as wife of Late Rambabu and now they are seeking amendment in the cause title and states that she is wife of one Sundara Rao. This makes it clear that the petitioners want to contend that the 2nd respondent is not the wife of Late Rambabu and she is the wife of Sundara Rao, that means, in one way the petitioners want to withdraw the admissions made by 1st petitioner in the petition.

It is the contention of the 2nd respondent that she is wife of Rambabu and not Sundara Rao. If really the petitioners want to prove that she is not wife of Rambabu and she is wife of Sundara Rao as per documents already filed by her, she can prove the same without even making amendment to the petition. So, amendment which now the petitioners sought is absolutely not necessary for adjudication of the matter in a proper manner. On the other hand, it one way takes away the admissions which she already made in the petition. Even this admission is not considered, petitioner wants to prove that she is not the wife of Rambabu, she can adduce evidence and agitate before court that she has no relation with Rambabu. Even if the amendment is allowed that will not help the petitioner to prove that 2nd respondent is not the wife of Rambabu. On the other hand, as it is rightly pointed by the counsel for respondents, absolutely there is no whisper about why petitioner is filing the present petition at this stage. She simply mentioned that she is advised to file petition and filed the petition for amendment. Why she has not filed this petition before adducing her evidence and why she has not mentioned the said fact at the time of filing petition itself is not stated.

As per amendment to Or.6 Rule 17 C.P.C., after commencement of trial, unless a party shows that inspite of due diligence, they could not bring the fact to the notice of the court, no such amendment can be permitted. In the present case, there is no whisper about what precluded the petitioners in bringing the said fact to the notice of the court prior to the commencement of trial. The cross-examination of P.W.1 also shows that the 2nd respondent has claimed that she is the wife of Rambabu. So, in these circumstances, this court could not see any reasons to permit the petitioner to carryout the amendment, as such, the present petition is berefted of merits. Hence the point is decided against the petitioners.”

Challenging the same, the present Civil Revision Petition is filed.

The main grievance appears to be that the second respondent was wrongly described and the petitioners want to make correct description of the second respondent by making corrections in the name of the husband, age and address. This attempt was made after completion of evidence of P.W.1. The said application was dismissed in view of the evidence already recorded. By mere description in the cause title, no right would be conferred on any party and the relationship of the second respondent either with the petitioners or with late Rambabu or whether she is the wife of Rambabu or Sundara Rao has to be decided on the basis of the oral and documentary evidence adduced before the Court.

In view of the above, the Civil Revision Petition is dismissed upholding the order of the lower Court. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

03.02.2016

vs

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