

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.1258 of 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the 6th Additional District Judge-cum-Sessions Judge, Mahila Court, Visakhapatnam, in I.A.No.448 of 2014 in O.S.No.271 of 2008 dated 18.12.2015.

The petitioner herein is the plaintiff in the Suit. It is their case that, during the pendency of the Suit and before he died, the 5th defendant had alienated the suit schedule property in favour of respondents 6 and 7. They filed an application to implead the proposed respondents 6 and 7 as parties to the Suit. The said application, filed under Order 1 Rule 10 CPC, was dismissed by the Court below holding that the Suit was dismissed as abated against the 5th defendant on 28.03.2014; since the petitioner had failed to take steps against dismissal of the Suit, as abated against the 5th defendant, they were now seeking to implead the purchasers of the property; and, since the Suit itself was dismissed as abated against the 5th defendant, his purchasers could not be brought on record. The petition was dismissed.

Sri G.Kalyana Chakravarthy, Learned Counsel for the petitioner, would draw attention of this Court to the affidavit filed in support of the application, wherein the petitioner contended that, despite repeated efforts, they were unable to procure details of the legal representatives of the deceased-5th defendant.

As the Suit was dismissed as abated against the 5th defendant on 28.03.2014, and as the said order continues to remain in force, the Court below cannot be faulted in holding that an application to implead the persons, who purchased the property of the 5th defendant during the pendency of the Suit, could not be entertained. The proposed respondents 6 to 7 are said to have purchased the property from the 5th defendant, and they trace their title over the subject property only through the 5th

defendant. As the Suit was already dismissed as abated against the 5th defendant, the Court below cannot be said to have committed any patent illegality in holding that an application to implead persons, who had purchased the property from the 5th defendant, could not be entertained as the order dated 28.03.2014, dismissing the Suit as abated against the 5th defendant, continues to remain in force. I see no reason, therefore, to interfere with the order passed by the Court below.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs. It is made clear that this Order shall not preclude the petitioner from filing an application, to set aside the earlier order of abatement of the Suit against the 5th defendant, in accordance with law.

(RAMESH RANGANATHAN, J)

Date:11.03.2016.
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