

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.3822 of 2014

ORDER:

Heard learned counsel for the petitioners.

This Revision is filed by the proposed plaintiffs against the order dated 30-07-2014 in I.A.No.459 of 2014 in O.S.No.353 of 2006, wherein the Court below dismissed the application filed to condone the delay of (282) days in filing the legal representatives petition under Order 22 Rule 3 C.P.C.

The brief facts of the case are that the 1st plaintiff filed suit for declaration and possession against the respondents. The 1st petitioner/1st plaintiff died on 25-05-2013 and due to ill-health, the 2nd petitioner could not inform the same to her counsel and filed petition within time. It is further stated that the 2nd petitioner is the wife and petitioners 3 to 7 are the children of the 1st plaintiff and they are entitled to implead as legal representatives by condoning the said delay.

Though notices are issued to the respondents and served, there is no opposition from the respondents.

A perusal of the impugned order, the Court below observed in Paragraph Nos 3 and 4 as under:

"The contention of the respondent is that except the oral say there is no proof to show that the petitioner is the wife and other proposed petitioners are the children of the deceased 1st plaintiff, therefore this petition is baseless and not maintainable.

After careful perusal of the contents of the affidavit petition, I come to conclusion that there is proof to show that the petitioner is the wife and other proposed petitioners are the children of the deceased 1st plaintiff."

By observing the same, the Court below dismissed the application. Though counter is filed, the contents of the same were also not reflected in the order. There is total non-application of mind by the Court below in passing the orders, especially when the 1st plaintiff died. In view of the same, the impugned order is liable to be set aside.

Accordingly, the Civil Revision Petition is allowed. The impugned order is set aside. The Court below is directed to dispose of the above Interlocutory application afresh on merits.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

27-01-2016

Note:
Issue C.C. in one week.
B/o.
nvl