

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.Nos.4627 and 4394 of 2015

COMMON ORDER :

Since the subject matter of these two Revisions is connected, they are being disposed of by this common order.

2. The petitioner herein is plaintiff in O.S.No.257 of 2000 on the file of III Additional Junior Civil Judge, Warangal.

3. He filed the said suit for declaration of title and injunction against 1st respondent.

4. The 1st respondent died. The 4th respondent is the son of 1st respondent. The 10th respondent is the son of 4th respondent.

5. The petitioner filed I.A.No.60 of 2015 to implead legal representatives of the deceased-1st respondent, including 10th respondent.

6. By order dt.08.08.2014, the Court below held that 10th respondent cannot be brought on record as legal representative of deceased-1st respondent since he is the son of 4th respondent, and only the 4th respondent along

with other children of deceased-1st respondent can come on record.

7. This order came to be passed in the absence of counsel for petitioner.

8. Challenging this order, petitioner filed CRP.No.4627 of 2015. He also filed I.A.No.61 of 2015 under Order IX Rule 4 C.P.C. to set aside the order dt.08.08.2014 on the ground that the said order was passed in the absence of counsel for petitioner. The said application was dismissed on 26.06.2015 by the Court below stating that if petitioner is aggrieved by order dt.08.08.2014, the petitioner should have challenged it in an appropriate Forum, but he cannot maintain an application under Order IX Rule 4 C.P.C.

9. Challenging the same, the petitioner filed CRP.No.4394 of 2015.

10. Heard the counsel for petitioner.

11. The counsel for petitioner does not dispute the fact that 4th respondent being the son of 1st respondent, he alone can be taken as the legal representative of 1st respondent and that the 10th respondent being the son of 4th respondent cannot be considered to be the legal representative of 1st respondent when the 4th respondent

is alive.

12. Therefore, I do not see any error of jurisdiction in the order dt.08.08.2014 in I.A.No.60 of 2015. Accordingly, the C.R.P.No.4627 of 2015 is dismissed. No order as to costs.

13. In view of the order passed in C.R.P.No.4627 of 2015, I am of the opinion that there are no grounds to set aside the order dt.26.06.2015 in I.A.No.61 of 2015. Therefore, C.R.P.No.4394 of 2015 is also dismissed. No order as to costs.

14. As a sequel, miscellaneous petitions pending if any in these Civil Revision Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-02-2016

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