

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.3323 OF 2016

ORDER:

The Civil Revision Petition is filed against the order dated 30.04.2016 passed in I.A. No.1453 of 2015 in O.S. No.295 of 2015 on the file of II Additional Junior Civil Judge, East Godavari District at Kakinada.

2) Heard learned counsel for the revision petitioners and learned counsel for the respondents. Perused the material on record.

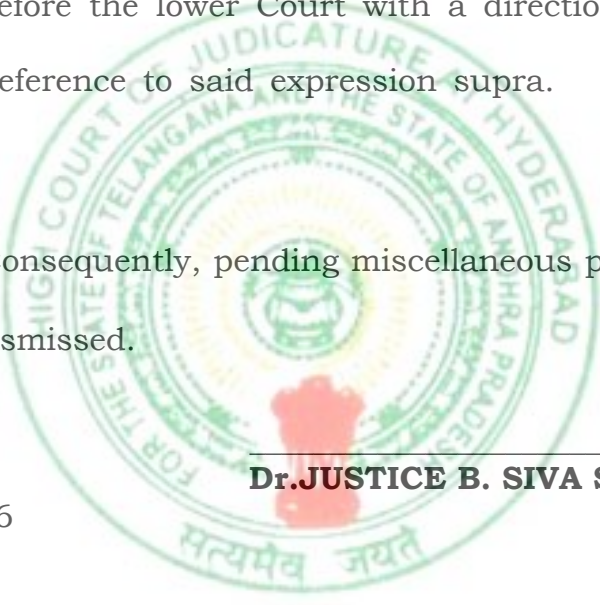
3) The plaintiff No.2 filed I.A. No.1453 of 2015 under Order XXII Rule 3 C.P.C to implead the L.Rs of plaintiff No.1 as respondent Nos.4 to 7 and plaintiff Nos.3 to 6 in the main suit and permit to amend the plaint and interlocutory application since plaintiff No.1 died on 23.10.2015. The said application is filed within the stipulated time of 90 days as contemplated by Article 120 of Indian Limitation Act, 1963.

4) It is one of the contests of the respondents/ defendants that as per the registered mortgage bond dated 16.08.1988 the mother of the deceased as Mattapalli Suryakantham and the petitioner has to prove whether Mattapalli Suryakantham is the mother of deceased plaintiff No.1 or Mattalapalli Kanakaratnamala is the mother of the deceased plaintiff No.1. In fact, it requires to determine as to the said parent's name and the petitioner is one of the legal representatives of the deceased or not. The Apex Court in ***Jaladi Suguna (died)***

through L.Rs vs Satya Sai Central Trust and others¹ at para No.10 observed that the filing an application to bring the L.Rs on record does not amount to bring the L.Rs. on record. Mere filing of application for L.Rs will not constitute impleadment automatically and thereby the lower Court did not advert to this aspect properly in determining the same and allowing the same is thus unsustainable.

5) Having regard to the above, the revision is allowed by setting aside the order of the lower Court and by restoring the application before the lower Court with a direction to determine afresh with reference to said expression supra. No order as to costs.

6) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.



Dr.JUSTICE B. SIVA SANKARA RAO

Dt.17.09.2016
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¹ AIR 2008 SC 2866