

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P. No.1947 OF 2016

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ORDER :
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This Civil Revision Petition is filed against the order dated 21.01.2016 in I.A.No.25 of 2015 in I.P.No.65 of 2014, wherein the Court below allowed the application filed under Order 22 Rule 4 CPC by the respondent/plaintiff for bringing the legal representatives of the original respondent/defendant in I.P.No.65 of 2014.

2. Learned counsel for the revision petitioners submits that when once the IP is filed against the original respondent/defendant i.e., late K.Bala Govinda Reddy, who is husband of 1st petitioner and father of 2nd petitioner, the cause in the petition does not survive because the petitioners cannot be declared as insolvents. As such, the order of the Court below allowing the LR petition filed by the respondent/plaintiff is erroneous. He would further contend that there are no properties left behind the original respondent, for continuance of the proceedings against his legal representatives, as envisaged under Section 17 of the Provincial Insolvency Act, 1920. As such, the continuance of proceedings in I.P.No.65 of 2014 does not arise.

3. Heard learned counsel for the petitioners.

4. In this case, it is to be seen that the prayer in the Insolvency Petition is for declaring the original respondent in IP No.65 of 2014 as insolvent and also for directing the estate of the insolvent-respondent to be vested in the Official Receiver for its due administration, for the benefit of the general body of the creditors. The plea raised in this revision petition that the proposed respondents/petitioners herein cannot be declared as insolvents, is not raised by the petitioners before the Court below, as such, it cannot be said that the order passed by the Court below is erroneous. In the Insolvency Petition, it is stated that original respondent in IP has indebted the respondent/plaintiff herein

with an intent to defeat and delay payment to his creditors.

5. Whether the original respondent has any properties or not is not the subject matter in this petition, which cannot be considered at this stage and the said contention of the revision petitioners should be considered by the trial court after enquiry in IP. In view of the same, it is open for the petitioners to raise all the contentions in IP during the enquiry. As such, I do not see any error in the order passed by the Court below.

With the above observations, this Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending, shall stand dismissed.

22.04.2016.
kvs

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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