

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.1959 of 2017

21.04.2017

Between:

Kadiri Appala Raju

..Petitioner

and

Kadiri Dhanalakshmi and others

..Respondents

Counsel for the petitioner: Mrs.A.Satyasree for Mr.K.Purushotham

Counsel for the respondents: --

The Court made the following:



ORDER:

This civil revision petition arises out of order, dated 29.03.2016, in I.A.No.42 of 2016 in I.A.No.41 of 2016 in O.S.No.361 of 2014 on the file of the Additional Senior Civil Judge, Gajuwaka, Visakhapatnam District.

2. The petitioner filed the aforementioned suit claiming 2/5th share in the death benefits of his deceased father - Kadiri Danayya, who was an employee in Visakhapatnam Steel Plant. Pending the suit, he filed the aforementioned I.A. for a direction to respondent No.1 to deposit Rs.10,00,000/- to the credit of the suit account towards his 2/5th share in the death benefits in order to keep the same in fixed deposit till the disposal of the suit. This application was dismissed by the Court below, by the order under revision, on the reasoning that the validity or otherwise of Ex.R-5 – an unregistered will set up by respondent Nos. 1 to 3 needs to be adjudicated in the suit and that as respondent No.1 was admittedly the nominee of the deceased employee for receiving the death benefits, the interim relief claimed by the petitioner cannot be granted.

3. At the hearing, the learned counsel for the petitioner has not disputed the fact that respondent No.1 has already received the death benefits. In law, being the nominee, respondent No.1 is entitled to receive the death benefits, however, with the obligation that she has to distribute those benefits to all the legal heirs of the deceased employee as per their legal entitlement. In other words, as the nominee, respondent No.1 acts only as a trustee. However, though there is no dispute relating to the relationship between the petitioner and the deceased employee, the petitioner, being son through the first wife of the latter, if Ex.R-5 is

upheld, he will not be entitled to receive any part of the death benefits. As respondent No.1 has already received the death benefits, at this stage, it would not be appropriate to direct her to deposit the same in a fixed deposit. On the facts of this case, the discretion exercised by the Court below in dismissing the aforementioned I.A. cannot be said to be either illegal or irrational.

4. For the aforementioned reasons, the Civil Revision Petition is dismissed.

5. As a sequel to dismissal of the C.R.P., C.R.P.M.P.No.2572 of 2017 filed by the petitioner for interim relief shall stand dismissed as infructuous.

21st April, 2017
GHN

C.V.NAGARJUNA REDDY, J

