

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P.M.P.Nos.8771, 8772 and 8773 of 2017
IN/AND
CIVIL REVISION PETITION No.5565 OF 2010

ORDER:

This revision is maintained impugning the dismissal docket order dated 01.06.2010 in E.A.No.6 of 2005 in E.P.No.13 of 2004 in O.S.No.20 of 1978, saying the revision petitioner/ JDR No.2 by name Illandula Kamsalya W/o late Lakshminarasaiah-JDR No.1 is not complied with the order of this Court in C.R.P.No.6056 of 2004 dated 05.04.2006.

The 1st respondent herein is the decree holder who died even earlier to the date of revision is not in dispute. Among respondent Nos.2 to 4 herein, respondents Nos.2 and 4 are served, respondent No.3 not received is a deemed service and hence taken as heard.

At this stage, it is the submission of the learned counsel for the revision petitioner that the revision petitioner died and legal representatives applications in C.R.P.M.P.Nos.8771, 8772 and 8773 of 2017 are pending. Hence, the same are allowed to implead the petitioners 2 to 5 as legal representatives of the first revision petitioner by setting aside the abatement and condoning the delay in filing.

The earlier revision order before this Court in C.R.P.No.6056 of 2004 is against the judgment dated 19.01.2004 in CMA No.3 of 2003 passed by the Senior Civil Judge, Jagtial. It is against the application to set aside the ex parte decree ended in dismissal and CMA filed also ended in dismissal, from which earlier revision is maintained.

The C.R.P.No.6056 of 2004 is allowed by allowing the Order IX Rule 13 application by restoring the suit in O.S.No.20 of 1978, subject to costs of Rs.2,000/- to deposit within one week from that order dated 05.04.2006 and with a direction to the trial Court for expeditious disposal within three months there from.

Whether the said order of this Court is complied with or not is on the original side of the lower Court in that suit. Once the order is complied with and decree is set aside, the question of executability does not arise, for no executable decree is a consequence of it. Unless it is set aside, the executing of the decree, by virtue of the revision order cannot be questioned.

Having regard to the above, there is nothing to interfere with the impugned docket order, but for, giving liberty to the petitioners in the revision to pursue their remedies on the original side of the suit in O.S.No.20 of 1978 pursuant to the revision order in C.R.P.No.6056 of 2004.

Accordingly, the Civil Revision Petition is disposed of.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

Dr. B. SIVA SANKARA RAO, J

Date:27-12-2017

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