

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.4796 OF 2011

ORDER:

Heard both sides.

2. In the suit of the plaintiff in O.S.No.780 of 2003 pending on the file of the III Additional Junior Civil Judge, Nellore, against the sole defendant, since sole defendant died on 08.02.2006 from the intimation by the counsel on record appears to be on 20.03.2006 of the fact, the application to bring on record the respondents 2 and 3 of the revision as proposed defendants 2 and 3 sought for by condoning the delay and setting aside the abatement.

3. Leave about one petition sufficient for all the three prayers which are consequential to the main prayer as per the settled law though otherwise for each prayer a separate application is required from the Rules of Practice, in the petition on hand it is mentioned wrongly as if the delay is 156 days of the LR application filed on 15.09.2006, from that day to the date of death it is 7 months 6 days and 90 days is the limitation to bring on record the LRs from the date of death and 60 days is the period to set aside abatement. After excluding the 150 days, the delay is only 66 days.

4. Having regard to the above and from the reason assigned of knowing by enquiry about the LRs and any other LRs, the delay occurred for not even a case of the proposed defendants that the counsel for 1st defendant while intimating the death furnished the particulars of the LRs.

5. Having regard to the above, the petition is allowed by condoning the delay within the purview of the pragmatic approach of the sufficient cause by also allowing the application setting side the abatement and by bringing on record, the proposed LRs as defendants 2 and 3 by directing the trial court to carry the amendment, with a direction to the plaintiff to file neat copy consequently by closing the pending petitions before the lower court by virtue of this order to avoid unnecessary delay and subject to costs of Rs.660/- by plaintiff to defendants 2 and 4.

6. 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

07.11.2017
SS