

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

C.R.P. Nos.2029 and 2074 of 2017

COMMON ORDER

Since the issue involved in both the revision petitions is one and the same, they are being disposed of by this common order.

2. The revision petitions are directed against the docket orders dated 21.02.2017 passed in O.S.Nos.430 and 429 of 2009 by the learned Principal Junior Civil Judge, Srikakulam, respectively.

3. Respondents/plaintiffs filed suits in O.S.Nos.430 and 429 of 2009 for eviction and arrears of rent against the defendants. During pendency of the suits, the 1st plaintiff died and the 2nd and 3rd plaintiffs being sons were brought on record as legal representatives. While so, the 2nd and 3rd plaintiffs filed memos in the said suits stating that they being the sons of deceased 1st plaintiff were already brought on record and there is no need to implead the other legal representatives in the suits. The defendants in both the suits opposed the said memos on the ground that as per the evidence of P.W.1, the deceased 1st plaintiff was having three daughters and they are entitled to come on record. By docket orders dated 21.02.2017, the trial Court closed the said memos on the ground that the suits are filed only for eviction and arrears of rent against the defendants-tenants, as such, there is no need to bring the daughters of the deceased 1st plaintiff on record as her legal representatives and that if the daughters were claiming right over the suit schedule property, they can file a separate suit against the

plaintiffs. Aggrieved by the same, the defendants filed the present revisions.

4. Learned counsel for revision petitioners/defendants contended that since the suits are filed for eviction, the daughters of the deceased 1st plaintiff are entitled to come on record and that the trial Court ought not to have observed that the daughters are not necessary parties to the suits.

5. Learned counsel for respondents/plaintiffs contended that as the suits are filed for eviction, the 2nd and 3rd plaintiffs being sons of deceased 1st plaintiff are competent to contest the suits.

6. Having heard the learned counsel for both sides, it can be said that though the objection of the revision petitioners/defendants seems to be well founded, it is still for the plaintiffs to take appropriate steps to implead all the legal representatives of the deceased 1st plaintiff in spite of their having knowledge that the deceased 1st plaintiff has legal representatives other than plaintiffs. It is for the plaintiffs to face the consequences of non-impleadment of necessary parties to the suit. The revision petitioners/defendants can take advantage of the non-impleadment of three daughters of deceased 1st plaintiff as parties to the suit and challenge the maintainability of the suit on the ground of non-joinder of necessary parties to the suit. There are no merits in both these revisions and the same are liable to be dismissed.

7. With the above observations, the Civil Revision Petitions are dismissed. No order as to costs. Miscellaneous petitions, if any, pending in these revisions shall stand dismissed.

M.S.K. JAISWAL, J.

20th June, 2016
sj

