

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.5776 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the legal representatives of the deceased proposed 2nd plaintiff, assailing the order, dated 28.03.2016, of the learned V Additional Senior Civil Judge (Judge, Fast Tract Court), Ranga Reddy District at L.B.Nagar, passed in I.A.No.28 of 2015 in O.S.No.1321 of 2006.

2. I have heard the submissions of Sri Mohd. Gulam Hyder, learned counsel for the petitioners, and of Sri Sujith Jaiswal, learned counsel for respondents 1 and 2. I have perused the material record.

3. The facts, which are necessary for consideration, in a nutshell, are as follows:-

During the pendency of the suit, the sole plaintiff died. As there was a delay in bringing on record his legal representatives, necessary applications, including the afore-stated interlocutory application for condonation of delay of 1662 days in seeking to set aside the abatement, are filed. On merits and by the order impugned in this Civil Revision Petition, the said petition was dismissed by the trial Court. Since the proposed 2nd plaintiff also died, the Legal Representatives of the deceased proposed 2nd plaintiff, who are aggrieved by the impugned order, filed this Civil Revision Petition with the leave of this Court. Be that as it may.

4. It is an undisputed fact that even the proposed 2nd plaintiff died on 31.01.2016. A copy of his death certificate is also placed on record. In view of the said fact, the impugned order, which was passed on

28.03.2016, that is, after the death of the proposed 2nd plaintiff, is a nullity, since it is an order passed against a dead person. In that view of the matter, this Court is of the considered view that the matter requires to be remitted to the trial Court after setting aside the order impugned to enable the Legal Representatives of the proposed 2nd plaintiff (since died) to take appropriate steps in the matter in accordance with the procedure established by law.

5. In the result, the Civil Revision Petition is allowed and the impugned order is set aside. The matter is remitted to the trial Court giving liberty to the petitioners herein/legal Representatives of the deceased proposed 2nd plaintiff to move before the trial Court appropriate applications, which the law permits.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

02nd August, 2017
Bvv

M.Seetharama Murti, J

