

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

CIVIL REVISION PETITION NO.3299 OF 2017

DATED:18-08-2017

Between:

Duggirala Surya Rao (died)
and another

... Petitioners

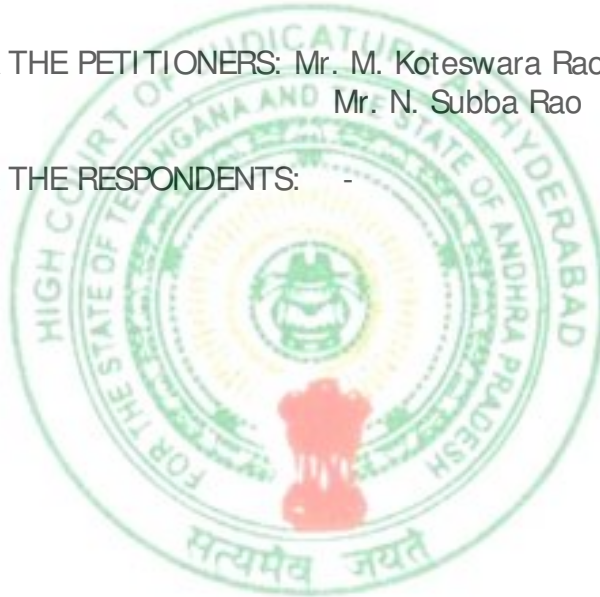
And

Takasi Venkata Nookaraju (died)
per legal representatives
and others

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. M. Koteswara Rao, for
Mr. N. Subba Rao

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

ORDER:

Order dt.19.06.2017 in I.A. No.990 of 2016 in A.S. No.520 of 2004 on the file of the X Additional District and Sessions Judge, Visakhapatnam, at Anakapalle, is assailed in this civil revision petition.

The petitioners filed O.S. No.310 of 1994 before the Principal Junior Civil Judge, Anakapalle, for specific performance of agreement of sale against one Takasi Venkata Nookaraju, S/o. Satyanarayana. The details as to the exact nature of the suit, the relief granted by the trial Court and the material relating to the appeal are not available before this Court. However, the learned counsel for the petitioners submitted that the suit was partly decreed by the trial Court to the extent of directing the return of the advance consideration to the petitioners. The learned counsel further submitted that feeling aggrieved by the said decree, the original defendant filed A.S. No.520 of 2004. The petitioners filed cross-objections in the said appeal in the year 2016 evidently claiming the relief of specific performance of agreement of sale. It appears that even before the said cross-objections were filed, the sole appellant died on 21.05.2015 and petitioner No.2 admitted that she came to know about the death of the sole appellant on 26.07.2015. However, she has not taken any steps to bring on record the legal representatives of the deceased – appellant when she has filed cross-objections. Almost one year after she came to know about the death of the sole appellant, petitioner No.2 has filed I.A. No.990 of 2016 on 24.06.2016 for bringing on record his legal representatives. The Court below has dismissed the said application by observing that the conduct of petitioner No.2 in not filing the application within a reasonable time after coming to know about the death of the sole

appellant disentitles her to bring on record the legal representatives of the deceased - appellant.

The learned counsel for the petitioners has not disputed the fact that petitioner No.2 was aware of the death of the sole appellant on 26.07.2015 itself. With the failure of bringing on record the legal representatives of the sole appellant within the period of limitation, the appeal abated. Even though petitioner No.2 was aware of the death of the sole appellant, for the reasons best known to her, she has filed the cross-objections against a dead person, without filing an application to bring on record the legal representatives of the appellant in the abated appeal. In these facts and circumstances of the case, the Court below was justified in throwing out the I.A. Hence, I do not find any reason to interfere with the order of the Court below.

The civil revision petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.4341 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

18-08-2017

bmr