

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

C.R.P.No.942 of 2017

ORDER

This revision is directed against the order dated 08.08.2016 passed in I.A.No.432 of 2015 in O.S.No.38 of 2014 by the learned Senior Civil Judge, Rajam, Srikakulam District.

2. Petitioner herein filed O.S.No.38 of 2014 for partition of plaint schedule properties against the respondents. During pendency of the suit, 9th defendant died on 04.05.2014 and the suit against him was dismissed as abated. Thereafter, petitioner filed I.A.No.432 of 2015 under Order 22 Rule 4 of C.P.C., to add the wife of deceased 9th respondent/9th defendant, by name, Laveti Narayanamma, as Class-I legal heir of the deceased in the suit. By order dated 08.08.2016, the trial Court dismissed the said petition holding that the petitioner has not filed petitions to condone the delay of 510 days in filing the impugned application and to set aside the abatement.

3. Heard learned counsel for petitioner and perused the material on record.

4. Since the impugned application is filed after a lapse of 510 days from the date of death of 9th defendant and the petitioner has not filed a petition to condone the said delay and also a petition to set aside the abatement, the trial Court dismissed the petition by the order infirm or irregular. The revision can be disposed of with liberty to the petitioner to file appropriate applications before the impugned. Therefore, the order of the trial Court cannot be said to be Court

below for bringing the legal representatives of deceased 9th respondent on record, in accordance with law.

5. Granting liberty to petitioner as stated above, the Civil Revision Petition is disposed of. No order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

28th February, 2017
sj

M.S.K.JAISWAL, J

