

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.3650 of 2011

Date :2.10.2017

Between :

Allam Renukabai W/o late Rajeswara Rao
63 yrs R/o Akkayyapalem
Visakapatnam

Petitioner

And

Allam Rajeswara Rao (Died)
R/o D No. 37-12-48,
NGGO's Colony, Kapparada,
Visakapatnam and others

Respondents

The Court made the following:



HONOURABLE SRI JUSTICE P. NAVEEN RAO

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ORAL ORDER:

In this revision petitioner challenges the order of the first appellate Court dated 15.11.2010 made in I A No. 365 of 2010 in A S No. 303 of 2009 on the file of Court of I Additional District Judge, Visakapatnam. By this order, trial Court allowed the application filed by the respondent herein under Order 22 Rule 3 of CPC read with Rule 28 of Civil Rules of Practice to come on record as legal representatives of the appellant.

Revision petitioner is respondent before the first appellate Court.

Heard Mr V.CH.Naidu, learned counsel for petitioner **and none appeared for Mr.M.V.S. Sai Kumar, counsel for respondents.**

Learned counsel for revision petitioner Mr V Ch. Naidu contends that the order under revision does not assign reasons in support of the decision and on that ground alone, the order is liable to be set aside. He further submits that petitioner is objecting to the claim of the respondents herein as legal representatives of deceased appellant and that specific objection was raised and without looking into the said objection raised by the petitioner, the first appellate Court allowed I.A. No. 365 of 2010 merely on the ground that the petitioner did not appear on the day when the case was posted. Learned counsel further submits that in the counter affidavit specific objection was raised on the entitlement of the respondents to claim that they are legal representatives of the deceased appellant.

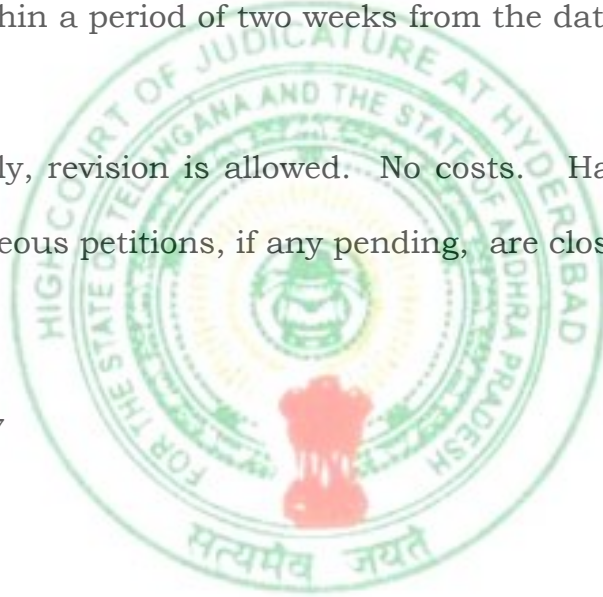
Since specific objection is raised in the counter affidavit on the maintainability of the respondents to represent the deceased/appellant, the Court below ought to have considered the said objection before allowing the application. Thus, on that ground the order under revision

is set aside and matter is remitted to consideration by the first appellate Court.

Since first appeal is of the year 2010, the first appellate Court is directed to consider the objection of petitioner herein on maintainability of the claim of respondents to represent the deceased appellant and take appropriate decision after affording due opportunity to both sides within six weeks from the date of receipt of copy of the order. The parties are directed to cooperate for early disposal and if parties do not cooperate the first appellate Court shall proceed with the matter and pass appropriate orders. Since the order under revision is passed due to absence of petitioner, petitioner herein is directed to pay costs of Rs.1000/- to the respondents within a period of two weeks from the date of receipt of copy of this order.

Accordingly, revision is allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:2.11.2017
TVK



P NAVEEN RAO,J