

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

C .R.P.No.6079 of 2017

Date: 17.11.2017

Between:

Yellapur Naga Suri Appa Rao,
S/o.Late Krishna, Aged 47 years,
R/o.Door.No.54-12-7/3/1,
Bhanu Nagar, HB Colony,
Visakhapatnam

...

Petitioner

And

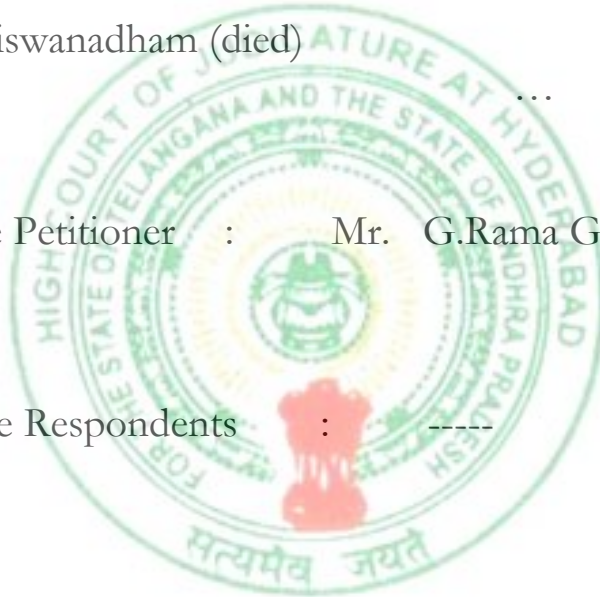
Yellapu Kasi Viswanadham (died)
and 11 others

...

Respondents

Counsel for the Petitioner : Mr. G.Rama Gopal

Counsel for the Respondents : -----



The Court made the following:

Order:

This civil revision petition is filed against order dated 04.10.2017 in I.A.No.573 of 2017 in O.S.No.159/2011.

2. I have heard Mr.G.Ramagopal, learned counsel for the petitioner and perused the record. The petitioner who is the plaintiff in O.S.No.159 of 2011, filed the aforementioned I.A., for bringing on record, respondents No.8 to 12 as the legal representatives of the deceased respondent No.1. This application was dismissed by the lower Court on the ground that though respondent No.8 has specifically mentioned the residential addresses of all the respondents, the petitioner has not taken steps to serve the notice on respondents No.9 to 12.

3. At the hearing, the learned counsel for the petitioner has drawn my attention to a copy of the docket order dated 30.08.2017 retrieved from the internet generated daily status report of the lower Court, which reveals that on 30.08.2017 while adjourning the I.A., the Court has noted that in view of the Memo. filed by the counsel for the proposed respondent No.8 to the effect that the respondents No.9 to 12 (who are none other than the sons of the proposed respondent No.8) are residing in different stations, and that the said respondents were called absent, service on the proposed respondent No.8 is constructively held sufficient for proposed respondents No.9 to 12 and accordingly, they were set ex parte.

4. Based on the above docket endorsement, the learned counsel for the petitioner submitted that the Court below, having held that there was constructive service of notice on the proposed respondents No.9 to 12, has committed a serious error in dismissing I.A.No.573 of 2017 on the ground of non service of notice on the said respondents.

5. While prima facie I find merit in the submission of the learned counsel for the petitioner, I am not inclined to entertain this revision petition at this stage because, the lower Court has dismissed the I.A., obviously not noticing its earlier order dated 30.08.2017. I am, therefore, of the opinion that it is a fit case for filing review by the petitioner so that the Court below, may rectify the mistake allegedly committed by it.

6. Accordingly, without rendering conclusive opinion on the merits of the case and correctness or otherwise of the order under revision, this civil revision petition is disposed of by permitting the petitioner to file a review. If such review is filed, the Court below shall consider with open mind and objectively and pass appropriate order.

7. As a sequel to the disposal of civil revision petition, C.R.P.M.P.No.7855 of 2017 is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Date: 17th November, 2017

msb

