

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

CIVIL REVISINO PETITION NO.4616 OF 2017

DATED:16-03-2018

Between:

Vision Natives reg. society
Rep. by its Executive Director
Sri Chigulur Arjun Rao
Residing at Plot No.206, Sector 4
MVP Colony
Visakhapatnam ... Petitioner

And

Gurivelli Appala Swamy (died),
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. D.S. Siva
Darshan, for
Mr. Avinash Desai

COUNSEL FOR RESPONDENT Nos.2 to 5: Mr. S.
Madhava Rao

THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition is filed against order and decree dt.20.06.2017 in I.A. No.301 of 2016 in O.S. No.1256 of 2004 on the file of the I Additional Senior Civil Judge, Visakhapatnam.

2. The short issue involved in this civil revision petition is whether the Court below was right in bringing on record respondent Nos.2 to 5 as the legal representatives of respondent No.1/defendant No.3 without the former seeking setting aside of the order by which deceased - defendant No.3 was set *ex parte*.

3. Under Order XXII Rule 4(4) of the Code of Civil Procedure, 1908 (CPC), if a party who was set *ex parte* dies later, an application has to be made by the adversary party to exempt him from bringing on record the legal representatives of such party. It is not in dispute that in O.S. No.527 of 2005 on the file of the VI Additional Senior Civil Judge, Visakhapatnam, between the same parties, respondent Nos.2 to 5 were brought on record as the legal representatives of respondent No.1. This clearly shows that the petitioner had knowledge of the death of respondent No.1. If the petitioner felt that there was no need for bringing on record the legal

representatives of respondent No.1, it ought to have filed an application under Order XXII Rule 4(4) of CPC. But, no such application was filed.

4. At the hearing, it has come out that as a consequence of the order passed by the lower Court, the petitioner has amended the cause title and respondent Nos.2 to 5 have filed an additional written statement. In these facts and circumstances of the case, I do not find any reason to interfere with the order of the lower Court.

5. Hence, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, interim order dt.08.09.2017 shall stand vacated and C.R.P.M.P. Nos.6029 and 7977 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

16-03-2018

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