

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION NO.1978 OF 2017

ORDER:

This is a revision filed against the orders dated 30.12.2016 in Succession O.P.SR.No.7638 of 2016 passed by the Senior Civil Judge at Tadepalligudem, West Godavari District.

The case of the petitioners is that they filed an application under Section 372 of the Indian Succession Act for issue of a Succession Certificate for an amount of Rs.6,08,530/- lying in the name of the deceased daughter of petitioners 1 and 2 and the sister of the third petitioner respectively.

As the value of the claim was Rs.6,08,530/-, Court fee of Rs.36,512/- was payable for engrossing the Succession Certificate. However, because of a mistake, the amount was paid by way of a challan into the Court account (CCD account) and that the amount has been remitted to the Court Fee account of the Senior Civil Judge at Tadepalligudem, West Godavari District. On realising the mistake, the petitioners filed an application for refund or transfer of the said amount. The lower Court, by the impugned order, held that the application was premature and that it was not the stage to look into the aspect. Against the said order, the present revision is filed.

Heard the learned counsel for the petitioners. There is no representation for the respondent.

Section 66 of the Andhra Pradesh Court Fees and Suits Valuation Act ("the Act" for brevity) states that a fee paid by mistake or inadvertence shall be ordered to be refunded. In this case, admittedly and as pleaded by the learned counsel for the

petitioner, instead of depositing the Court fee stamps, they have directly deposited the amount into the Court account which is a genuine error and by inadvertence alone this was done. Therefore, this Court finds that under Section 66 of the Act, the petitioners are entitled to refund of the Court fee that was paid by mistake and inadvertence.

Learned counsel for the petitioners also relied on the decisions reported in **Andhra Pradesh Road Transport Corporation Rep.by its Vice Chairman and Managing Director, Musheerabad, Hyderabad v. C.P.Ramaiah¹ and Kumari Arunadevi v. Special Deputy Collector, Land Acquisition (General), Hyderabad²**. In all these decisions, it was held that the Court has an inherent power to order refund of the Court fee paid by mistake or inadvertence since this Court is not merely a Court of law but also a Court of justice and equity.

For all these reasons, the Civil Revision Petition is allowed and it is made clear that the petitioners are entitled to get refund of the Court fee paid. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(D.V.S.S.SOMAYAJULU, J)

3rd January 2018
RRB

¹ 1987 (1) ALT 604

² 1971 (2) AndhWR 282