

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.2645 of 2016

ORDER:

This revision petition is filed under Section 115 CPC assailing the order dated 13.04.2016 passed in E.A.No.3 of 2016 in claim petition No.40 of 2013 in E.P.No.74 of 2012 in O.S.No.1043 of 1999 on the file of the Court of Junior Civil Judge, Cyberabad at Hayathnagar.

2. Heard the learned counsel for the petitioner and the learned counsel for the first respondent.

3. A perusal of the record reveals that the petitioner herein filed claim petition No.40 of 2013 in E.P.No.74 of 2012 in O.S.No.1043 of 1999 on the file of the Court of Junior Civil Judge, Cyberabad at Hayathnagar, under Order XXI Rule 58 CPC. After filing of the counter by the first respondent, the petitioner came to know about the death of second respondent. The petitioner filed E.A.No.3 of 2016 seeking permission of the Court to implead the legal representatives of the second respondent by condoning the delay in filing the LR petition. The executing Court dismissed the petition on 13.04.2016.

4. At the time of arguments, learned counsel for the first respondent submitted that he has no objection for allowing of the revision petition.

5. In view of the submission made by the learned counsel for the first respondent, this Court is not inclined to go into the

merits of the main case. It is needless to say that a claim petition cannot be adjudicated without impleading the legal representatives of the deceased-second respondent. Viewed from that angle also, it is a fit case to allow the revision.

6. Accordingly, the Civil Revision Petition is allowed setting aside the order dated 13.04.2016 passed in E.A.No.3 of 2016. Consequently, E.A.No.3 of 2016 in claim petition No.40 of 2013 in E.P.No.74 of 2012 in O.S.No.1043 of 1999 on the file of the Court of Junior Civil Judge, Cyberabad at Hayathnagar, is allowed. The executing Court is hereby directed to dispose of claim petition No.40 of 2013 in E.P.No.74 of 2012 in O.S.No.1043 of 1999 as expeditiously as possible, preferably, within a period of six (6) months from the date of receipt of copy of this order. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:03.10.2018
Rns

T.SUNIL CHOWDARY, J