

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.5812 of 2018

Date: 05.10.2018

Between:

Gondesi Appala Reddy

.. Petitioner

and

Kandrapu Narayana Reddy (died) and 19 others

.. Respondents

Counsel for the Petitioner :

Mr.Subba Reddy.S.

The Court made the following:



Order:

This Civil Revision Petition (CRP) arises out of Order, dated 30.07.2018, in IA.No.787 of 2017 in AS.No.122 of 2006, on the file of the Judge for Trial of Cases under SCs and STs (POA) Act – cum- XI Additional District and Sessions Judge, Visakhapatnam.

The petitioner filed the aforementioned IA under Order I Rule 10 CPC for his impleadment in place of the deceased respondent No.8 in the aforesaid Appeal. This Application having been opposed by the legal representatives of respondent No.9, the Court below has dismissed the same.

Admittedly, respondent No.8 in the Appeal died as far back as 16-01-2010. As the appellants have not brought on record the legal representatives of the deceased respondent No.8, the Appeal itself abated against the said deceased respondent. The petitioner cannot, therefore, seek to come on record, by filing the application under Order 1 Rule 10 CPC, in place of respondent No.8 against whom the Appeal already abated. If at all, the petitioner should have filed an application under Order XXII Rule 4 CPC to come on record as the legal representative of the deceased respondent No.8 along with the applications for condonation of delay in filing such application and also to set aside the abatement caused on account of the death of respondent No.8. This procedure having not been followed by the petitioner, he is not entitled to maintain

the application under Order I Rule 10 CPC. It is not the pleaded case of the petitioner that otherwise than through the deceased respondent No.8, he has any independent right over the property, which is the subject matter of the appeal. Though the lower Court has not assigned convincing reasons for dismissing the application, I am, however, in agreement with such dismissal.

For the aforementioned reasons, the CRP is dismissed.

As a sequel to dismissal of the CRP, IA.No.1 of 2018, filed by the applicant for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 5th October, 2018
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