

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

C.R.P.No.6034 of 2018

Date: 12.10.2018

Between:

Masavarapu Yerrinaidu (Died)
and four others

...

Petitioners

And

Palli Chinna Appa Rao,
S/o.Appala Naidu,
Hindu, aged 56 years,
Cultivation and residing at
Bharanikam village,
Parawada mandal,
Visakhapatnam district
and three others.

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Respondents

Counsel for the Petitioners : Mrs. T.V.Sridevi

Counsel for the Respondents : ----

The Court made the following:

Order:

This civil revision petition arises out of order dated 10.11.2017 in I.A.No.483 of 2014 in O.S.No.259 of 2007 on the file of the Principal Senior Civil Judge at Anakapalle.

2. I have heard Mrs.T.V.Sridevi, learned counsel for the petitioners and perused the record.

3. The deceased one Masavarapu Yerrinaidu, filed the aforementioned suit for recovery of money against the respondents.

As the sole plaintiff died, the suit has eventually abated. However, the legal representatives of the deceased plaintiff filed I.A.No.483 of 2014 for condoning the delay of 1510 days in filing the application to implead them as legal representatives of the deceased plaintiff. This application was dismissed by the lower court.

4. In my opinion, the procedure followed by the petitioners was wholly impermissible. When the suit has abated on account of the death of the sole plaintiff, the question of his legal representatives seeking to be impleaded in place of the former would not arise, unless they file an application for setting aside abatement of the suit. It is not the pleaded case of the petitioners that such an application was filed. Even otherwise, as rightly observed by the lower court, the petitioners failed to substantiate their plea that they were not aware of the pendency of the suit and that, only before they filed I.A.No.483 of 2014, they came to know about the filing of the suit.

5. For the aforementioned reasons, I do not find any merit in this civil revision petition and the same is, accordingly, dismissed.

(C.V.Nagarjuna Reddy, J)

Date: 12th October, 2018

msb



