

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

C.R.P.No.6325 of 2018

Date: 02.11.2018

Between:

L.Demudamma,
W/o.Late Rambabu,
Hindu, Aged: 53 years,
R/o.Gajuwaka,
Visakhapatnam district
and five others.

...

Petitioners

And

Pethakamsetty Ramaswamy Naidu,
S/o.Narasinga Rao,
Hindu Aged about 55 years,
R/o.D.No.33-14-269,
Allipuram Main Road,
Visakhapatnam and
fifteen others.

...

Respondents

Counsel for the Petitioners : Mr. Prabhala Raja Sekhar

Counsel for the Respondents: ----

The Court made the following:

Order:

This civil revision petition is filed against order dated 27.08.2018 in I.A.No.528 of 2018 in O.S.No.357 of 2004 on the file of the II Additional District Judge, Visakhapatnam.

2. Heard Mr.P.Rajasekhar, learned counsel for the petitioners and perused the record.

3. Respondents have filed the aforementioned suit for multiple reliefs, including declaration of title. During the pendency of the suit, plaintiffs 5, 6 and 13 died. The remaining plaintiffs filed the aforementioned I.A., for placing on record, the fact that the right to sue survives *qua* the estates of plaintiffs 5 and 13, while the suit has abated in respect of plaintiff No.6.

4. At the hearing, the learned counsel for the petitioners submitted that while the petitioners are not interested in questioning the finding of the lower court regarding the right to sue *qua* the estate of plaintiff No.5, as he is stated to have been represented by plaintiff No.4, the finding relating to the right to sue *qua* plaintiff No.13 is incorrect.

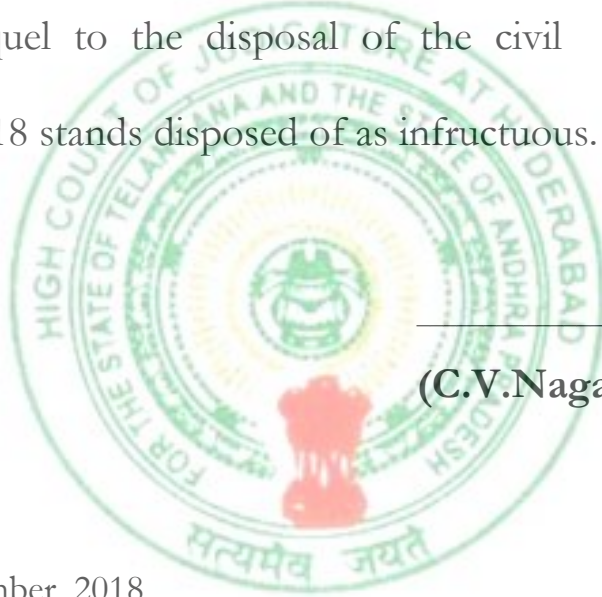
5. Admittedly, plaintiff Nos.12 and 13 jointly purchased the property. According to the learned counsel for the petitioners, the sale deed does not indicate the ratio of shares between plaintiffs No.12 and 13. Therefore, it cannot be said that plaintiff No.12 is not

entitled to more than half share. Even in the absence of the legal representatives of plaintiff No.13, the right to sue survives to the extent of the property jointly held by plaintiffs No.12 and 13, as plaintiff No.12 is entitled to pursue the suit in his own right.

6. In the above view of the matter, I do not find any error in the order of the lower court.

7. The civil revision petition is, accordingly, dismissed.

8. As a sequel to the disposal of the civil revision petition, I.A.No.1 of 2018 stands disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

Date: 02nd November, 2018

msb

