

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.7527 of 2017

ORDER :

Heard the counsel for petitioner, and Sri K.S. Murthy, counsel for respondent nos.1 to 5.

2. This Civil Revision Petition is filed challenging the order dt.21.12.2017 passed in O.S.No.269 of 2017 on the file of Principal Junior Civil Judge, Srikalahasti.

3. Apparently, the petitioner / plaintiff filed the above suit against the respondents describing the 1st respondent as 'Nagalapuram Sundaram' instead of 'Nagalapuram Raja', without knowing that the said Nagalapuram Sundaram died on 01.06.2005 itself.

4. According to petitioner, the name of 1st respondent had been furnished to him by neighbours of respondents and he had no personal knowledge about it. When respondent nos.2 to 6 filed *Vakalat* through an Advocate, they also filed Memo along with the original death certificate of Nagalapuram Sundaram stating that he died on 01.06.2005. The Court below straightaway passed the order on 21.12.2017 to take action against petitioner through the concerned police.

5. The counsel for petitioner contended that the petitioner ought to have been given an opportunity to explain under what circumstances the 1st respondent / 1st defendant was incorrectly described in the

plaint and such opportunity was denied to petitioner, and this caused grave prejudice to petitioner.

6. Though the counsel for respondents sought to sustain the said order passed by the Court below, in my considered opinion, the petitioner was entitled to a notice and a hearing as to the circumstances in which she wrongly described the 1st defendant, and without doing so, straightaway a prosecution cannot be launched against petitioner.

7. Therefore, the impugned order is set aside. The Court below is directed to give an opportunity to petitioner to explain the circumstances in which she wrongly described the 1st respondent, hear both parties and then pass a reasoned order.

8. Accordingly, the Civil Revision Petition is allowed as above. No order as to costs.

9. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06.04.2018

Ndr/*