

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.2823 of 2017

ORDER :

This Civil Revision Petition arises out of Order dt.23.03.2017 passed in I.A.No.561 of 2016 in O.P.No.243 of 2010 on the file of I Additional District Judge, Karimnagar.

2. The petitioners herein are third-parties to the above O.P.
3. The said O.P. was filed by respondent nos.1 and 2 against respondent nos.3 to 6 under Section 372 of the Indian Succession Act, 1925, to grant succession certificate in favour of respondent nos.1 and 2 for an amount of Rs.3,67,595.75 said to be payable on account of death of one K. Anjaiah, who is the husband of 1st respondent and the father of 2nd respondent, and who retired from Government service on 31.01.2001 and later died on 16.05.2007.
4. The petitioners' mother, who is the 6th respondent herein, was arrayed as 4th respondent in the above O.P., because she also claimed death benefits of the deceased in the above O.A.No.6817 of 2007 before the Andhra Pradesh Administrative Tribunal, Hyderabad, and had been impleaded as party therein.
5. The petitioners filed I.A.No.561 of 2016 claiming to be the son and daughter of deceased-Anjaiah through the 6th respondent. This application was opposed by respondent nos.1 and 2, who contended that the 6th respondent is not the legally wedded wife of the said

K. Anjaiah. They contended that legal heir certificate was issued by the Mandal Revenue Officer, Vemulavada only in favour of respondent nos.1 and 2; and the Mandal Revenue Officer had refused legal heir certificate to 6th respondent.

6. By order dt.23.03.2017, the Court below dismissed the implead application on the ground that they have to establish that the 6th respondent is the lawfully wedded wife of the deceased-Anjaiah; and that petitioners are born through her through the said Anjaiah.

7. Challenging the same, the present Civil Revision Petition is filed.

8. The counsel for petitioners contended that under Section 16 of the Hindu Marriage Act, 1955 even if the marriage between the 6th respondent herein and the said Anjaiah was not a lawful marriage, still the petitioners would be heirs-at-law, and the Court below overlooked this fact and unnecessarily went into the question whether the 6th respondent is the lawfully wedded wife of the deceased-Anjaiah or not.

9. The counsel for respondent nos.1 and 2 did not dispute Section 16 of the Hindu Marriage Act, 1955 that petitioners would be legal heirs even if their mother, the 6th respondent, is not the legally wedded wife of the deceased-Anjaiah. However, he contended that the said Anjaiah had no other children other than the 2nd respondent and claims that there is some material to show to prove the said fact.

10. Therefore, I am of the opinion that petitioners are entitled to be impleaded in the above O.P. But the petitioners would still have to establish that they are born to the said Anjaiah through the 1st respondent by leading appropriate evidence in that regard.

11. The Court below shall then consider the evidence let in by respondent nos.1 and 2 as well as petitioners and 6th respondent and then decide the O.P. in accordance with law within a period of six (06) months from the date of receipt of copy of the order.

12. Accordingly, the Civil Revision Petition is allowed with the above directions. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 15.04.2019

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