

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SMT. JUSTICE K. SUJANA

CIVIL REVISION PETITION Nos: 1979, 1981 & 1982 of 2021

Civil Revision Petition No. 1979 of 2021

Petition Under Article 227 of Constitution of India against the order dated 20-10-2021 in I.A.No.4 of 2021 in O.S.No.55 of 2013 on the file of the Court of the Special Judge for trial of Cases Under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam.

Between:

Konda Latchaiah, S/o. Late Sangaiah, Age: 78 years, Occ: Retired Superintendent In Zilla Parishad, R/o. H No. 4-277/5, Srinivasa Nagar, Khammam City, Khammam District.

...Petitioner/Plaintiff

AND

1. Konda Venkata Narayana @ Venkanna (died)
2. Konda Appamma @ Chandrakala, Age: 59 years, R/o. H No. 3-3-67 Gandhi Nagar, Khammam Town and District.
3. Konda Goutham, S/o. Late Venkanarayana @ Venkanna, Age: 10 years R/o. H No. 3-367, Gandhi Nagar, Khammam Town and District.

(Represented by its Natural Guardian Mother)

...Respondents/Proposed LRs

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to SUSPEND the Order dated 20-10-2021 passed in IA No. 4 of 2021 in O.S. No. 55 of 2013 on the file of court of the Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam, pending disposal of the main CRP.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim suspension order dated 24-12-2021 passed in IA No.1 of 2021 in CRP No. 1979 of 2021 until further orders in the interest of justice.

Counsel for the Petitioner: SRI SYAM SUNDAR KONDAPALLI

Counsel for the Respondents: None Appeared

Civil Revision Petition No.1981 of 2021

Petition Under Article 227 of Constitution of India against the order dated 20-10-2021 in O.S.No.55 of 2013 on the file of the Court of the Special Judge for trial of Cases Under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam.

Between:

Konda Latchaiah, S/o. Late Sangaiah, Age: 78 years, Occ: Retired Superintendent In Zilla Parishad, R/o. H No. 4-277/5, Srinivasa Nagar, Khammam City, Khammam District.

...Petitioner/Plaintiff

AND

1. Konda Venkata Narayana @ Venkanna (died)
2. Konda Appamma @ Chandrakala, Age: 59 years, R/o. H No. 3-3-67 Gandhi Nagar, Khammam Town and District.
3. Konda Goutham, S/o. Late Venkanarayana @ Venkanna, Age: 10 years R/o. H No. 3-367, Gandhi Nagar, Khammam Town and District.

(Represented by its Natural Guardian Mother)

...Respondents/Proposed LRs

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an order by Restoring the suit O.S.No.55 of 2013 in its original position by suspending the Docket Order dated 20-10-2021 passed in IA No.4 of 2021 in O.S. No.55 of 2013 on the file of court of the Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam, pending disposal of the main CRP.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim suspension order dated 24-12-2021 passed in IA No.1 of 2021 in CRP No. 1981 of 2021 until further orders in the interest of justice.

Counsel for the Petitioner: SRI SYAM SUNDAR KONDAPALLI

Counsel for the Respondents: None Appeared

Civil Revision Petition No.1982 of 2021

Petition Under Article 227 of Constitution of India against the order dated 20-10-2021 in I.A.No.3 of 2021 in O.S.No.55 of 2013 on the file of the Court of the Special Judge for trial of Cases Under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam.

Between:

Konda Latchaiah, S/o. Late Sangaiah, Age: 78 years, Occ: Retired Superintendent In Zilla Parishad, R/o. H No. 4-277/5, Srinivasa Nagar, Khammam City, Khammam District.

...Petitioner/Plaintiff

AND

1. Konda Venkata Narayana @ Venkanna (died)
2. Konda Appamma @ Chandrakala, Age: 59 years, R/o. H No. 3-3-67 Gandhi Nagar, Khammam Town and District.
3. Konda Goutham, S/o. Late Venkanarayana @ Venkanna, Age: 10 years R/o. H No. 3-367, Gandhi Nagar, Khammam Town and District.

(Represented by its Natural Guardian Mother)

...Respondents/Proposed LRs

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to SUSPEND the Order dated 20-10-2021 passed in IA No. 3 of 2021 in O.S. No. 55 of 2013 on the file of court of the Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam, pending disposal of the main CRP.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim suspension order dated 24-12-2021 passed in IA No.1 of 2021 in CRP No. 1982 of 2021 until further orders in the interest of justice.

Counsel for the Petitioner: SRI SYAM SUNDAR KONDAPALLI

Counsel for the Respondents: None Appeared

The Court made the following: COMMON ORDER

THE HONOURABLE SMT. JUSTICE K. SUJANA
CIVIL REVISION PETITION Nos.1979, 1981 & 1982 of 2021

COMMON ORDER:

C.R.P.No.1979 of 2021 arises out of order dated 20.10.2021 passed in I.A.No.4 of 2021 in O.S.No.55 of 2013 by the learned Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge, Khammam.

2. C.R.P.No.1981 of 2021 arises out of order dated 20.10.2021 passed in O.S.No.55 of 2013 by the learned Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge, Khammam.

3. C.R.P.No.1982 of 2021 arises out of order dated 20.10.2021 passed in I.A.No.3 of 2021 in O.S.No.55 of 2013 by the learned Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge, Khammam.

4. O.S.No.55 of 2013 is filed by the petitioner/plaintiff under Section 26 read with Order VII Rule 1 of CPC seeking partition and separate possession.

5. I.A.No.3 of 2021 is filed by the petitioner/plaintiff under Rule 28 read with 151 of C.P.C seeking to permit the petitioner to take necessary consequential judgments in the plaint.

6. I.A.No.4 of 2021 is filed by the petitioner/plaintiff under Order XXII Rule 4 (5) read with 151 of C.P.C. seeking to set aside the abatement in O.S.No.55 of 2013.

7. The facts of the case are that defendant No.1/respondent No.1 died on 29.07.2020 during Covid-19 Pandemic. To that effect, petitioner/plaintiff filed memo informing about the death of the sole defendant on 09.04.2021.

8. On the other hand, respondents/proposed Legal Representatives filed counter affidavit stating petitioner has failed to explain that the proposed parties are necessary to implead as legal heirs as defendants in the suit. Petitioner and the deceased respondent are own brothers and the petitioner has knowledge about the death on 29.07.2020 itself and he also attended all ceremonies of the deceased. Petitioner filed petition after lapse of nine months, for which

to harass the L.Rs only he filed the petition, inspite of knowing about the death of the defendant.

9. After hearing on both sides, the trial Court dismissed the petition stating that the plaintiff having knowledge about the defendant on 29.07.2020 and he was not explained day to day delay and there are no sufficient reasons for not filing the petition. Aggrieved by the same, the present Civil Revision Petition is filed.

10. Heard Sri Syam Sundar Kondapalli, learned counsel for the petitioner. Though notice served upon the respondent, none appeared on his behalf.

11. Having regard to the submissions made by learned counsel for the petitioner and having gone through the material available on record, it shows that the defendant in O.S.No.55 of 2013 died on 29.07.2020 and the counsel for the L.Rs filed memo informing the death of the deceased on 09.04.2021 under Order XXII Rule 4(5) read with 151 CPC. Order XXII Rule 4 (5) of CPC says that counsel has to inform the Court about the death of the party and the limitation starts from the date of informing the Court by the counsel, whereas, the trial Court erroneously observed that he know

about the death of the deceased on 29.07.2020. Even otherwise, since the surge of Covid-19 pandemic, the Hon'ble Supreme Court excluded the period from 15.03.2020 till 28.02.2022 for computing the limitation in filing petitions/applications/suits/appeals all other quasi proceedings under the general law of limitation and other special laws. Therefore, the order of trial Court is liable to be set aside.

12. Accordingly, these Civil Revision Petitions are allowed setting aside the orders dated 20.01.2021 in I.A.3 of 2021, I.A.No.4 of 2021 in/and O.S.No.55 of 2013 passed by the learned Special Judge for Trial of Cases under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge, Khammam. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

SD/- G. SIREESHA
ASSISTANT REGISTRAR



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SECTION OFFICER

To,

1. The Special Judge for trial of Cases Under SCs/STs (POA) Act-cum-VII Additional District and Sessions Judge at Khammam.
2. One CC to SRI SYAM SUNDAR KONDAPALLI, Advocate [OPUC]
3. Two CD Copies

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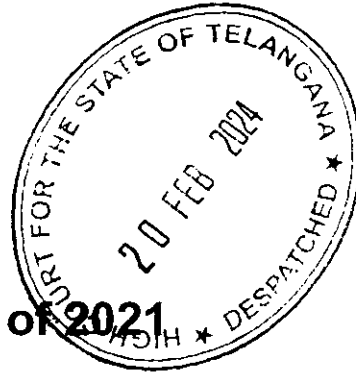
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HIGH COURT

DATED:29/12/2023

COMMON ORDER

CRP.Nos.1979, 1981 & 1982 of 2021



**THESE CIVIL REVISION
PETITIONS ARE ALLOWED**

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