

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
THURSDAY, THE SEVENTEENTH DAY OF AUGUST,
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE V SRINIVAS
AS NO: 238 OF 1999 & Tr AS.No.310 OF 2006



Between:

1. Yadavareddi Bhaskara Rao, S/o China Punnaiah, Hingu, aged about 60 years, Cultivation, Kadavakolly Veeravalli, Vuyyuru Mandalam, Gannavaram, Krishna District.
2. Yadavareddi Siva Venkata Krishnarao, S/o Bhaskararao, Hindu, aged 27 years, Mentally Retarded, Father's Protection, Kadavakollu Veeravalli, Vuyyuru Mandalam, Gannavaram, Krishna District.

...Appellants/
Defendants

AND

Smt Kolusu Gangamma, W/o late Tirupathaiah, Hindu, aged about 60 years, Landlady, Cultivation, residing at Kadavakollu Veeravalli, Vuyyuru Mandalam, Gannavaram, Krishna District.

...Respondent/
Plaintiff/Respondent

Appeal Under Section 96 of CPC against the judgment and decree in O.S.No.11 of 1994, dated 05.10.1998 on the file of the Court of the Senior Civil Judge, Machilipatnam.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 02.03.2020 made herein and upon hearing the arguments of Sri Vakati Venkata Gnanusha, Advocate for the Petitioners and Sri K.V.Satyanarayana, Advocate for the Respondent;

Tr.AS.No. 310 of 2006

Between:

Y. Siva Venkat Krishna Rao,

.....Appellant

AND

Kolusu Gangamma

..Respondent

Tr.Appeal filed under Order XLI Rule 1 of CPC against Decree and Judgment passed in OS. NO. 145 of 1993 on the file of the Senior Civil Judge, Machilipatnam, dated 5-10-1998.

Counsel for the Petitioner: M/s Vakati Venkata Gnanusha
Counsel for the Respondent: --

The Court made the following;

ORDER:

"Ms.Vakati Venkata Gnanusha, learned counsel filed vakalat for 2nd appellant by name Sri Siva Venakata Krishna Rao.

At this stage, it is brought to the notice of this Court that earlier three applications were filed i.e. ASMP No.1172 of 2010 is filed to condone the delay of 784 days in filing the petition to set aside the abatement caused due to the death of the sole respondent, ASMP No. 1173 of 2010 is filed to bring legal representatives of deceased sole respondent Smt. Kolusu Gangamma i.e., Komma Vengamma, Dhimmila Amaji and Nerusu Krishna Murthy on record as respondent Nos.2 to 4, ASMP No. 1174 of 2010 is filed to set aside the abatement caused due to the death of the sole respondent in the appeal.

While the matter stood thus, one Sri Komma Kanaka Chintaiah S/o. Gopalaswamy filed ASMP No.1990 of 2016 to implead him as party/respondent being the guardian of the sole respondent.

In I.A.No.01 of 2016 stating that Smt.K. Gangamma had initially executed a registered Will dated 03.09.1991 bequeathing her property including the property in dispute in the present appeal to him, as he was the grandson of her sister and admittedly the said Smt K. Gangamma, died on 30.11.2007.

In the above circumstances, as there are two sets of people intended to come on record, one set of them are said to be legal heirs and another set is coming through the Will dated 03.09.1991, this Court passed an order on 02.03.2020 directing the 'Senior Civil Judge, Krishna at Machilipatnam, to try the issue as to who is the legal heir of Smt. K.Gangamma, after conducting trial in the matter and to return the records together with the evidence, if any, recorded at such trial, his findings and reasons therefor within a period of six months from the date of the receipt of that order'.

In the above order, it is very clear that there was a direction given to the Senior Civil Judge, Krishna at Machilipatnam to record the evidence and give finding, who is the legal heir of Smt K. Gangamma. On verification of record there is no such report received by this Court till date.

It is requested by learned Senior Counsel, Sri Radha Krishna, that if evidence and report had already completed, the Senior Civil Judge, Machilipatnam may be directed to send the report immediately with a special messenger.

In the said circumstances, the Senior Civil Judge, Krishna at Machilipatnam is directed to send his findings immediately, if evidence is already completed. If not, within a month from this day send the report along with the findings and evidence, if any, to this Court to proceed further in this matter.

List after two (02) weeks."

//TRUE COPY//

For /

Sd/- M. SRINIVAS
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Senior Civil Judge, Krishna at Machilipatnam, (by speed post)
2. The Section Officer, Appeal Filing Section, High Court of A.P., at Amaravati (OUT)
3. One CC to Sri E. Sambasiva Pratap, Advocate [OPUC]
4. One CC to Sri. K V Satyanarayana Advocate [OPUC]
5. To Section Officer, VR Section, High Court of AP
6. One spare copy

MM

HIGH COURT

SVJ

DATED:17/08/2023

NOTE: LIST AFTER TWO (02) WEEKS

ORDER

AS NO: 238 OF 1999 & Tr AS.No.310 OF 2006

DIRECTION

