

(2012) 06 AP CK 0018

Andhra Pradesh High Court

Case No: Civil Revision Petition : 618 of 2012

Nagapuri Sadanadam

APPELLANT

Vs

Paleti Aruna Kumari, Paleti Naga
Susmitha (Being Minor Rep.
natural guardian Paleti Aruna
Kumari) and Paleti Satya Sai,
(Being Minor Rep. natural
Guardian Paleti Aruna Kumari

RESPONDENT

Date of Decision: June 19, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 152

Citation: (2012) 5 ALT 104

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: Sreenivasa Rao Ravulapati, for the Appellant; B. Avani Reddy for Sri Kowturu
Vinaya Kumar, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy

1. This Civil Revision Petition arises out of order dated 18-6-2009 in I.A.No.241/2009 in O.S.No.126/2006 on the file of the learned Junior Civil Judge, Madhira. The petitioner filed the above mentioned suit for recovery of certain amount from the respondents towards the liability incurred by the husband of respondent No.1 and father of respondent Nos.2 and 3. The said suit was decreed exparte on 20-11-2006 in the following terms:

1. That the defendant do pay to the plaintiff a sum of Rs. 68,800/- with costs and future interest @ 6% p.a. on Rs. 40,000/- from the date of filing of the suit till the date of realization.

2. That the defendants do pay to the plaintiff a sum of Rs. 4416-00 towards costs of the suit.

2. I.A.No.241/2009 was filed by the respondents for amendment of the said decree on the plea that there is an accidental slip and omission in the decree. The respondents sought for addition of the words to the decree to the effect that the decree shall be executed against the estate, if any, left by the principal Late Paleti Krishna Rao, and in possession of the respondents. This application was allowed by the lower Court, by amending Clause (1) of the decree as under:

1. That the defendant do pay to the plaintiff a sum of Rs. 68,800/- with costs and future interest @ 6% p.a. on Rs. 40,000/- from the date of filing of the suit till the date of realization from out of the properties of the deceased P. Krishna Rao.

2. That the defendants do pay to the plaintiff a sum of Rs. 4416-00 towards costs of the suit.

3. u/s 152 of the Code of Civil Procedure, 1908 (for short "CPC") clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court either of its own motion or on the application of any of the parties. By no stretch of imagination, it can be said that there was any clerical or arithmetical mistake in the decree as originally made, nor any accidental slip or omission could be deciphered therein. The lower Court appears to have proceeded on the premise that since the respondents represent the estate of the deceased, their liability is confined to the extent of the properties left by the deceased and in their occupation. While in law this position may be correct, the addition of the words having the effect of restricting the respondents' liability to the estate left by the deceased, amounts to amendment of the decree. Such an amendment of the decree does not fall within the scope of Section 152 CPC. In this view of the matter, the order of the lower Court cannot be sustained in law and the same is accordingly set-aside. However, the respondents shall be free to question the decree in accordance with law, if they feel aggrieved thereby. The Civil Revision Petition is accordingly allowed.