

OFFICE OF THE PRINCIPAL DISTRICT JUDGE:: KURNOOL


Dis.No. 6711/Estt/2024

Dated 06-11-2024

Letter ROC No.142/SO/2024, dated 04-11-2024 along with copy of Order, dated 01-02-2024 passed in C.R.P.No.5435 of 2018 by the Hon'ble High Court of Andhra Pradesh regarding **observations are made with regard to non-receipt of acknowledgement card in many cases for proof of service and such cases are kept pending and fresh notices are ordered time to time**, is herewith communicated, **for information and compliance**.

All the Judicial Officers working in Kurnool District are requested to download the letter Letter ROC No.142/SO/2024, dated 04-11-2024 along with copy of Order, dated 01-02-2024 passed in C.R.P.No.5435 of 2018 by the Hon'ble High Court of Andhra Pradesh from District Court website i.e., <https://kurnool.dcourts.gov.in> for information and compliance.

All the Judicial Officers are requested to submit the compliance report after downloading the above copy to this Court.


PRINCIPAL DISTRICT JUDGE,
KURNOOL.

To,

All the Judicial Officers in Kurnool District.

The Secretary, District Legal Services Authority, Kurnool.

The Senior Superintendent (Accounts), Principal District Court, Kurnool.

The Senior Superintendent, Central Nazareth Section, Principal District Court, Kurnool.

The Senior Superintendent (Numbering), Principal District Court, Kurnool.

The Stenographer Grade-I, Principal District Court, Kurnool.

The Translator/Criminal Bench Clerk, Principal District Court, Kurnool.

The Superintendent, Civil Bench Clerk, Principal District Court, Kurnool.

The System Officer, District Court, Kurnool, with a direction to upload the same in the District Court's Official website.



Dr. Y. LAKSHMANA RAO
REGISTRAR GENERAL

AMARAVATI
(Off) :0863 2372613
(Telefax):0863 2372631

ROC No.142/SO/2024

Dated 4.11.2024



To
All the Principal District Judges
in Andhra Pradesh.
Sir/Madam,

Sub: High Court of Andhra Pradesh – Order dated 01.02.2024 passed in C.R.P.No. 5435 of 2018 by the High Court of Andhra Pradesh – Observations are made with regard to non-receipt of acknowledgement card in many cases for proof of service and such cases are kept pending and fresh notices are ordered time to time – Reg.

Ref: Order dated 01.02.2024 passed in C.R.P.No. 5435 of 2018 by the High Court of Andhra Pradesh.

Adverting to the subject and reference cited, as directed, I am to forward herewith the copy of Order dated 01.02.2024 passed in C.R.P.No. 5435 of 2018 by the High Court of Andhra Pradesh. for information and necessary action.

Further, I also request you communicate the same to all the Judicial Officers in your Unit and to the Presiding Officers of Labour Courts/Tribunals in the District working under the control of the High Court, for information and compliance.

Yours sincerely,

Y. Lakshmana Rao
4/11/24
REGISTRAR GENERAL

Encl: As stated.

Ans 2573
6/11/24

*** HIGH COURT OF ANDHRA PRADESH: AMARAVATI**

HON'BLE SRI JUSTICE NYAPATHY VIJAY

CRP.No.5435 of 2018

% 01.02.2024

Peram Sravani, D/o Peram Sivah,
Age 24 Yrs., R/o Cherukupalli village,
Cherukupalli Mandal, Guntur District and another
... Petitioners

Vs.

\$ Peram Bhagyamma, W/o Ammaiah,
Hindu, 69 Yrs., House Wife,
R/o Cherukupalli village,
Cherukupalli Mandal, Guntur District and 2 others.
... Respondents

! Counsel for the petitioner: Smt. Marella Radha

! Counsel for the Respondent : -----

< Gist:

> Head Note:

? Cases referred:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**C.R.P.No.5435 of 2018****ORDER:**

The present Civil Revision Petition is filed against the order dated 04.09.2017 passed in I.A.No.382 of 2016 in O.S.No.142 of 2011 by the Court of the Senior Civil Judge, Repalle, Guntur.

2. The Petitioners are the plaintiffs and the application was filed under section 5 of the Limitation Act to condone the delay of 146 days in filing the petition to set aside the default order dated 01.04.2016.

3. The case of the petitioners is that suit O.S.No.142 of 2011 was filed for partition and the suit was posted to 01.04.2016 for filing of chief affidavit of the petitioners on payment of costs of Rs.300/- to Mandal Legal Services Committee, Repalle. As the 1st petitioner/1st plaintiff was suffering from jaundice and was on ayurvedic medication, she could not attend the Court on 01.04.2016 and as such, the suit was dismissed for default for non-payment of costs to Mandal Legal Services Committee. It is stated that the other plaintiff i.e. sister of the petitioner No.1 stays in a

different village along with her grandmother and she was also not aware of the conditional order and hence the non-payment of costs and non-filing of chief affidavit were not intentional and that the default order would seriously prejudice their rights in the immovable properties annexed to the plaint.

4. On the other hand, the respondents filed their counter contending that the petitioners did not proceed with the trial in spite of considerable time granted by the Court and as such, the present application cannot be maintained without giving day to day explanation for the delay. That trial Court by order dated 04.09.2017 dismissed the application and hence, the present revision petition is filed.

5. This Court had issued notice to the respondents on 20.09.2018 and also on 22.02.2019. The endorsement by the Registry in the Court file is that the notice was issued on 22.04.2019, but the acknowledgment card is yet to be received. The non-receipt of acknowledgement card is a common reason in many cases for proof of service and

such cases are kept pending and fresh notices are ordered from time to time. Even then, the acknowledgment cards are not received and the cases are kept pending for eons. This stumbling block in the disposal of cases both in the District Judiciary as well as this Court needs to be addressed.

6. The answer to this is that Order VI Rule 14A C.P.C., contemplates address for service of notice. This provision was introduced by the C.P.C. Amendment Act 104 of 1976 pursuant to the 27th report of the Law commission report. This provision was introduced specifically to mitigate the delays in adjudication of the suit. The same reads as under:

14A. Address for service of notice.-

(1) Every pleading, when filed by a party, shall be accompanied by a statement in the prescribed form, signed as provided in rule 14, regarding the address of the party.

(2) Such address may, from time to time, be changed by lodging in court a form duly filled up and stating the new address of the party and accompanied by a verified petition.

(3) The address furnished in the statement made under sub-rule (1) shall be called the "registered address" of the

party, and shall, until duly changed as aforesaid, be deemed to be the address of the party for the purpose of service of all processes in the suit or in any appeal from any decree or order therein made and for the purpose of execution, and shall hold good, subject as aforesaid, for a period of two years after the final determination of the cause or matter.

(4) Service of any process may be effected upon a party at his registered address in all respects as though such party resided thereat.

(5) Where the registered address of a party is discovered by the court to be incomplete, false or fictitious, the court may, either on its own motion, or on the application of any party, order—

(a) in case where such registered address was furnished by a plaintiff, stay of the suit, or

(b) in case where such registered address was furnished by a defendant, his defence be struck out and he be placed in the same position as if he had not put up any defence.

(6) Where a suit is stayed or a defence is struck out under sub-rule (5), the plaintiff or, as the case may be, the defendant may, after furnishing his true address, apply to the court for an order to set aside the order of stay or, as the case may be, the order striking out the defence.

(7) The court, if satisfied that the party was prevented by any sufficient cause from filing the true address at the proper time, shall set aside the order of stay or order striking out the defence, on such terms as to costs or otherwise as it thinks fit and shall appoint a day or proceeding with the suit or defence, as the case may be.

(8) Nothing in this rule shall prevent the court from directing the service of a process at any other address, if for any reason, it thinks fit to do so.

7. As per the above provision, the correct address should be mentioned at the time of filing of **pleadings** and as such, the defendants/respondents are also obligated to mention their correct address notwithstanding the address mentioned in the plaint, while filing their written statement or counter affidavit to any interlocutory application in the specified form. The address so furnished shall be treated as **registered address** for service on such party.

8. The address of the parties to the *lis* has been given utmost importance as the Courts are empowered even *suo-motu* stay the suit in case address is wrongly mentioned by the plaintiff or to strike out defense in case address is wrongly mentioned by the defendant as per sub-section (5). The language employed in Order VI Rule 14A makes it absolutely mandatory for the parties to adhere to the rule in a strict sense and the mandatory nature of the rule is apparent as consequences are provided for furnishing incorrect address as mentioned above.

9. The change of address of the parties to the *lis* should be voluntarily intimated to the Court by way of verified petition of the parties as per Sub-Rule (2). In the event the change of address is not intimated to the Court voluntarily by the parties to the *lis*, it is not open to the parties to the *lis* to contend that they did not receive notice in any post suit proceedings as such **registered address** mentioned in the pleadings shall by fiction hold good for a period of **two years** from the date of final determination.

10. Once the Court is satisfied that address mentioned for service of notice is the **registered address**, the Order V C.P.C provides for mechanism for delivery of summons by Court. The proviso to Order V Rule 9 C.P.C., provides, where the summons are properly addressed, pre-paid and duly sent by registered post with acknowledgement due shall be deemed to be served on the defendants/respondents notwithstanding the receipt of acknowledgement ordered within 30 days from that date of issue of summons.

11. In reality, as the majority of communication in the society is through whatsapp, e-mail, SMS etc., the Courts cannot be shut out from these technological advances and practices of the society. To enable service of notice through these modes of service, the registered address furnished by the parties to the *lis* should be inclusive of e-mail address (if available) and registered mobile number of the parties which is linked to their respective Aadhar card or Bank account. These modes of service help in quick service and help in seamless process of adjudication. It is noted that these modes of service have to be treated as additional modes of service only but not as a substitute to statutory mode of service.

12. Coming back to the case, this Court, after considering the provisions of Order VI Rule 14A and Order V Rule 9 of C.P.C., and the factum of issuance of notice to the respondents to the undisputed address mentioned in the plaint through registered post acknowledgment due, is of the opinion that the same is to be considered to be

deemed service of notice on the respondents and hence the revision is being disposed of on merits.

13. The plea of the petitioners that 1st petitioner is suffering from jaundice cannot be brushed away merely because she did not file a medical certificate to establish the same. It is a matter of common knowledge that jaundice would be treated at home by following a healthy diet and the insistence of the trial Court for a medical certificate may not be necessary. Considering the fact that the suit is one for partition and the dispute is between the brothers and sisters, this Court is of the opinion that the revision deserves to be allowed.

14. Hence, the order of the trial Court dated 04.09.2017 is set aside and the Civil Revision Petition is allowed. No order as to costs. As a sequel, the miscellaneous petitions if any shall stand dismissed.

NYAPATHY VIJAY,J

Date: 01.02.2024

Note: L.R. copy be marked.

KLP