

## ANDHRA PRADESH HIGH COURT

Mannem Venkataramayya

Vs

M. Munnemma

(Gopalrao Ekbote, J.)

13.09.1962

### ORDER

#### **Gopalrao Ekbote, J.**

1. This is a revision petition filed against an order of the District Munsif of Chittoor, dated the 16th September, 1955. The facts which give rise to this petition are: Defendant I died on 28th December, 1954. A petition to bring the legal representatives of defendant 1 on record was filed. As a consequence of that petition, the two sons of the deceased were brought on record on 14th April, 1955. It was subsequently revealed that apart from the two sons, defendant 1 had left a widow. A petition therefore was filed on 14th June, 1955 to bring the widow of defendant 1 also on record as legal representative. This petition was opposed on the ground that it was time-barred. The learned District Munsif dismissed the petition holding that it was filed beyond the period of limitation.

2. The order of the learned District Munsif cannot be sustained. When the two sons of the deceased were already brought on record, they represented the estate of the deceased and therefore there was no question of limitation of 90 days as far as the subsequent petition was concerned. If there are several legal representatives, it is sufficient if all the legal representatives known after due diligent enquiry are joined within the period of limitation. Where some of the legal representatives have been brought on record or an application made within limitation, the subsequent application for bringing the other persons on record as legal representatives is not governed by the 'go days' rule but is governed by the limitation of three years, as provided for under Article 181, Limitation Act. I therefore hold that the estate of the deceased was properly represented by the joinder of the sons on record as legal representatives. The plaintiff has in my view shown sufficient cause for not bringing the widow on record along with the two sons. It is pertinent that the two sons also did not mention to the Court that the widow also is one of the legal representatives. I am supported in my view by a decision of the Nagpur High Court reported in *Rambhau Vithal Rao v. Nagarmal Jitmal*<sup>1</sup>, see also *Adusupalli Venkatarao v. Marikruthu Ammal*<sup>2</sup>. In the circumstances of the case, however, I think, the ends of justice will be

met if I put the petitioner on reasonable terms in order to produce the just result.

3. I therefore allow the revision petition, set aside the order of the Court below and allow the application to bring the widow on record on condition that the petitioner herein pays Rs. 35/- within one month from today to the learned Advocate appearing for the respondent failing which the application shall stand dismissed.

Cases Referred.

1AIR 1945 Nag 52  
213 Ind Cas 313 (Mad)