

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NOS.1560, 1722 AND 1723 OF 2015

DATED:4-9-2015

C.R.P. No.1560 of 2015

Between:

The Cotton Corporation of India
Guntur

... Petitioner

And

Yeluri Ramesh Babu

... Respondent

... Respondents

COUNSEL FOR THE PETITIONER: Mr. P.Vijaya Kiran

COUNSEL FOR THE RESPONDENTS: None appeared

THE COURT MADE THE FOLLOWING:

COMMON ORDER:

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These three civil revision petitions arise out of separate but identical orders passed by the Principal District Judge, Guntur, whereby he has confirmed the orders passed by the Principal Senior Civil Judge, Guntur, dismissing the applications filed by the petitioner for setting aside the *ex parte* decrees and restoring the suits to file.

The notices sent to the respondents were returned with the endorsement 'No such addressee. Return to sender'. Therefore, the petitioner was permitted to send notices to the counsel who appeared for the respondents in the lower Court. The petitioner has filed proof of service. However, no one entered appearance for the respondents.

The short issue that arises in these civil revision petitions is whether justifiable reasons exist for restoration of the suits dismissed for default.

Suits numbering about seventeen were filed by different persons against the petitioner, which is a Government of India Corporation, for recovery of the amounts based on purported vouchers and takpatties. It is the pleaded case of the petitioner that the respondents/plaintiffs in collusion with one of their officers, Mr. P.S.R. Koteswara Rao, have created fabricated vouchers and takpatties and falsely claimed the amounts from the petitioner in the above mentioned suits. Said seventeen suits were filed before different Courts in Guntur District. The petitioner has filed a transfer petition for transfer of all the suits to one Court. It appears that the District Court, Guntur, passed an order in the said petition directing that all the suits be tried together. A perusal of the record shows that multiple orders were passed and proceedings went on before various Courts despite the said transfer order by the District Court. Finally the cases appeared to have been

transferred to the Court of Principal Senior Civil Judge, Guntur.

The plea of the petitioner is that it was not aware of the transfer of the cases. However, both the Courts below have rendered a finding that it is reasonable to presume that the petitioner had knowledge of the transfer.

In the instant cases, the suits were filed for recovery of huge sums from the petitioner, which is a Government of India Undertaking. The petitioner has raised serious allegations of fraud and collusion between the respondents - plaintiffs and one of its officers. The applications for setting aside the *ex parte* decrees were filed within the period of limitation. This itself shows that the petitioner cannot be imputed with lack of diligence. There is nothing on record to show that functionaries of the petitioner have specific knowledge of transfer of the suits to the Court of Principal Senior Civil Judge at Guntur.

In these circumstances, I am of the opinion that both the Courts below have made an unduly rigid approach in considering the applications filed by the petitioner for setting aside the *ex parte* decrees. The Courts below have failed to note that being a Government Undertaking, there would not be as much personal vigilance over litigation as is expected from an individual litigant. Therefore, reasonable degree of latitude deserves to be given in such cases. Considering the fact that the petitioner has come out with applications for setting aside the *ex parte* decrees well within the period of limitation and the explanation offered by it cannot be completely brushed aside, I am of the opinion that refusal to set aside the *ex parte* decrees in the face of serious allegations of fraud made by the petitioner, gravely affects public interest.

In the light of the above, the orders under revision are set aside and the I.A.s stand allowed and the *ex parte* decrees in the three suits are set aside and the suits are restored to file.

The civil revision petitions are accordingly allowed.

As a sequel to disposal of the civil revision petitions, C.R.P.

M.P. Nos.2107, 2304 and 2305 of 2015 filed in the three revision petitions respectively, shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

4-9-2015

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