

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

CIVIL REVISION PETITION Nos.2320 and 2565 OF 2015

—

—

Between:

Chimala Srinivasa Rao

.. Petitioner

And

Panakala Satya Balaji

.. Respondent

DATE OF JUDGMENT PRONOUNCED: 06-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION Nos.2320 and 2565 of 2015

COMMON ORDER:

—

The petitioner in these two civil revision petitions is common.
He is the defendant in O.S.No.79 of 2013 on the file of the learned I
Additional Junior Civil Judge, Bhimavaram, West Godavari District.

The plaintiff in the afore-stated suit, the respondent herein, filed I.A.No.24 of 2015 therein to condone the delay in filing a list of documents and to receive the said documents by duly marking the same as Exs.A6 to A8. By order dated 20.02.2015, the trial Court took note of the fact that the respondent/defendant had not filed a counter to the said petition and accordingly allowed the I.A. subject to proof and relevance. It appears that the defendant in the suit thereupon filed I.A.No.41 of 2015 under Order IX Rule 7 C.P.C. to set aside the *ex parte* order dated 20.02.2015 passed by the trial Court in I.A.No.24 of 2015 in the said suit. By order dated 19.03.2015, the trial Court dismissed the said I.A. holding that the petitioner was not set *ex parte* and therefore, the question of filing a petition under Order IX Rule 7 C.P.C. did not arise. C.R.P.No.2320 of 2015 is filed against the order dated 20.02.2015 passed by the trial Court in I.A.No.24 of 2015 in O.S.No.79 of 2013 while C.R.P.No.2565 of 2015 arises out of the order dated 19.03.2015 in I.A.No.41 of 2015 in the said suit.

Heard Mr. Yallabandi Ramatirtha, learned counsel for the petitioner in the two cases, and Ms. A. Rupa Devi, learned counsel representing Mr. Chintapalli Srinivas, learned counsel for the respondent in these cases.

Perusal of the order dated 20.02.2015 passed by the trial Court in I.A.No.24 of 2015 filed in the suit reflects that the defendant was not set *ex parte*. The trial Court merely took note of the fact that no counter had been filed by the defendant contesting the petition and accordingly allowed the I.A. conditionally. The recourse taken by the petitioner/defendant as regards this order was to file a petition under Order IX Rule 7 C.P.C. This provision applies where the Court has adjourned the hearing of the suit *ex parte* and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance. As the petitioner/defendant was not set *ex parte*, the afore-stated provision has no application whatsoever. This Court

therefore finds no irregularity in the order dated 19.03.2015 passed by the trial Court holding to this effect.

As regards the order passed by the trial Court in I.A.No.24 of 2015 in O.S.No.79 of 2013, it is for the petitioner/defendant to take steps in accordance with law if he is aggrieved thereby.

Reserving liberty to the petitioner to do so, both the civil revision petitions are closed.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

6th August, 2015
IBL