

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.2749 of 2015

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 24.04.2015 passed by the learned Principal Senior Civil Judge, Kovvur, West Godavari District, in I.A.No.1221 of 2014 in O.S.No.388 of 2012. Petitioner is the plaintiff in the said suit. The second defendant in the suit was set *ex parte* on 13.08.2014. She filed I.A.No.1221 of 2014 to set aside the said *ex parte* order. Notice having been ordered upon the petitioner, the petitioner/plaintiff filed a counter thereto. The same was noted by the trial Court by a docket entry and the matter was posted for enquiry on 12.01.2015. However, by order dated 24.04.2015, the trial Court recorded that though notice was issued to the plaintiff, he chose to remain *ex parte* and therefore the petition should be allowed on payment of costs.

As the order dated 24.04.2015 was at variance with the record, this Court granted interim stay of further proceedings in the suit while ordering notice before admission on 20.07.2015.

Sri Davuluri Narasimha Rao, learned counsel appearing for the first respondent/second defendant, fairly conceded before this Court that the petitioner/plaintiff did in fact participate in the enquiry and that the order, which states to the contrary, is factually incorrect.

The trial Court must necessarily apply its mind to the facts obtaining in the individual case and pass cogent and well-reasoned orders. Pressure of work does not justify the trial Court passing orders with scant regard to the factual aspects of the matter. The present case is an example in this regard as the trial Court passed the order dated 24.04.2015 completely overlooking the docket entries and the record. The order dated 24.04.2015 therefore cannot be sustained and is accordingly set aside. The matter is remitted to the trial Court for consideration afresh of I.A.No.1221 of 2014 in O.S.No.388 of 2012

filed by the first respondent/second defendant. This exercise shall be completed expeditiously.

The civil revision petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

22nd September, 2015
IBL