

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Civil Revision Petition No.2957 of 2014
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ORDER:

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This civil revision petition under Article 227 of the Constitution of India by the petitioners/defendants is directed against the orders dated 30.06.2014 of the learned VI Additional District Judge (Judge, Fast Track Court), Narsapur passed in IA.no.217 of 2012 in OS.no.14 of 2009 filed under Order IX Rule 7 and Section 151 of the Code of Civil Procedure, 1908 ('the Code', for short) requesting to set aside the *ex parte* order dated 08.08.2011 and permit them to file their written statement and contest the suit.

2. I have heard the submissions of the learned counsel for the petitioners/defendants ('the defendants', for brevity) and the learned counsel for the respondents/plaintiffs ('the plaintiffs', for brevity). I have perused the material record.

3. The facts, as borne out by the record and as per the submissions now made before this Court, in brief, are as follows:

In the suit filed by the plaintiffs for specific performance, the defendants were set *ex parte* on 08.08.2011. Therefore, the defendants had filed the subject interlocutory application, along with their written statement, for setting aside the *ex parte* order. The suit was originally instituted in the Court of the learned Principal District Judge, Eluru. However, on administrative grounds and on establishment of the Additional District Court at Narsapur, the suit was transferred to the said Court. Nevertheless, after taking the said suit on the file of the transferee Court, no fresh summonses were issued to the defendants. When the application filed seeking to set aside the *ex parte* order was resisted by the plaintiff, the said petition was dismissed by the Court below by the orders impugned. Therefore, the defendants are before this Court.

4. Having regard to the facts peculiar to the case, this Court finds that there is acceptable merit in the revision and, therefore, the order impugned calls for interference.

5. In the result, the Civil Revision Petition is allowed and the order impugned is set aside. As a sequel, IA.no.217 of 2012 in OS.no.14 of 2009 stands allowed and the *ex parte* order dated 08.08.2011 is set aside. It is brought to the notice of this Court that a third party by name Narasimha Rao had filed IA.no.1352 of 2010 on 07.09.2010 under Order I Rule 10 of the Code for his impleadment. If any such application is pending, the trial Court shall give an opportunity to the plaintiffs and the defendants to file their counters, if any, in the said IA and dispose of the said application as expeditiously as possible and preferably within one (01) month from the date of the receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this CRP shall stand closed.

M. SEETHARAMA MURTI, J

08.03.2016

Vjl