

HON'BLE SRI JUSTICE R. KANTHA RAO
Civil Revision Petition No.4830 of 2015

ORDER:

Heard Sri A.K. Kishore Reddy, learned counsel appearing for the petitioner and Sri A.S.C. Bose, learned counsel appearing for the respondents.

2. The revision petitioner filed the suit against the respondents/ defendants basing on a promissory note. The respondents/defendants engaged an Advocate and thereafter, an *ex-parte* decree was passed on 03.01.2014. Subsequently, basing on the *ex-parte* decree, the revision petitioner filed execution petition i.e., EP No.13 of 2014. After filing of the execution petition, notices were issued to the respondents and the respondents engaged an Advocate. The Executing Court ordered attachment of salary of the respondents. Subsequently, the respondents filed petition in IA No.1565 of 2014 to set aside the *ex-parte* decree. The petition was opposed by the revision petitioner on the ground that the respondents have got full knowledge about the proceedings but deliberately failed to prosecute the case and invited the *ex-parte* decree and there were no valid grounds to set aside the *ex-parte* decree. The trial Court accepted the contention of the revision petitioner that the respondents have got full knowledge about the *ex-parte* decree and their contention that they do not have any knowledge is not correct. However, the trial court expressed the view that in the application seeking to set aside the *ex-parte* decree, the court has to take liberal approach and afford opportunity to the respondents to contest the case on merits. Accordingly, allowed the petition to set aside the *ex-parte* decree on payment of costs of Rs.2,000/- to the Mandal Legal Services Authority, Kakinada.

3. Though the reasoning adopted by the court below in arriving

at the decision is not correct, the court below has not committed any error in allowing the petition to set aside the *ex-parte* decree, requiring interference by this court in this civil revision petition.

4. Accordingly, the civil revision petition is dismissed. No order as to costs. Miscellaneous petitions, pending if any in this case, shall stand closed.

R. KANTHA RAO, J

Date: 29.01.2016
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