

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

C.R.P. No.2177 of 2016

Between:
Mukarram Jah Trust
... Petitioner

And
Mr.Md.Jabbar Yusuf Khan
... Respondent

JUDGMENT PRONOUNCED ON 25.04.2016

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

- 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
- 2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
- 3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

C.R.P. No.2177 of 2016

ORDER:

This revision petition has been filed aggrieved by the order dated 21.03.2016 passed in I.A. No.115 of 2016 in O.S. No.2054 of 2014 by the VIII Junior Civil Judge, City Civil Court at Hyderabad.

The revision petitioner and the respondent herein are the plaintiff and the defendant, respectively.

Originally, the said suit was filed by the plaintiff, seeking eviction and recovery of possession, arrears of rents and mesne profits, against the defendant. While so, the defendant appears to have set *ex parte* on 06.07.2015. Seeking to set aside the said *ex parte* order, the defendant filed I.A. No.115 of 2016 in O.S. No.2054 of 2014 and the learned Court below allowed the said application with costs. Aggrieved by the same, the plaintiff filed the present revision petition.

The learned counsel for the revision petitioner/plaintiff, *inter alia*, reiterating the grounds already raised before the Court below, submits that the defendant had tried to drag on the matter on flimsy grounds that he is not aware of the suit. The Court below failed to take into consideration that the defendant had already made his appearance on 02.02.2015 and subsequently filed false, fake and fabricated petition to appear through GPA. The learned Court below also committed an error simultaneously allowing the petition to reopen the case without any justified reasoning for the same.

As could be seen from the impugned order, it is clear that an application was filed by the defendant seeking to set aside *ex parte* order dated 06.07.2015 as he could not file his written statement and unable to participate in the suit. Denying the averments of the defendant, the plaintiff had filed counter before the Court below. The learned Court below found fault with the defendant's version with regard to having no knowledge and he has not received any summons. Further, as could be seen, the defendant filed an

application under Order IX Rule 7 for which, the learned counsel appearing for the plaintiff, before the Court below, had taken objection while placing reliance in the case reported in

SUIL KUMAR AND OTHERS Vs. PRAVEEN CHANDRA CHOWARDIA AND OTHERS^[1] and submitted that the said provision has no application. In this regard, the Court below after considering the said aspect held that if the arguments were completed and the matter is posted for judgment, Order IX Rule 7 is applicable but not for the *ex parte*. Further, the Court below held that as per the settled provision of law for mere quoting of a wrong provision in the petition, same cannot be dismissed if there are considerable grounds. No doubt, the defendant was stood *ex parte*, the matter is posted for judgment, the defendant filed an application along with his written statement stating that he will be put to irreparable loss if the *ex parte* injunction is granted. Considering his plea directing the defendant to be present on every date of adjournment for expedite trial, he cannot seek any adjournment in the suit without any reason and he is directed to cooperate for speedy disposal of the suit, failing which his rights will be forfeited. Accordingly, the application filed by the defendant was allowed with costs.

In that view of the matter, I do not see any reason to interfere with the impugned order as it does not suffer from any legal infirmity and therefore, this revision petition is liable to be dismissed. Accordingly, this revision petition is dismissed.

As a sequel, miscellaneous petitions, if any, stands closed.
There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 25.04.2016
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^[1] AIR 2008 Rajasthan 179