

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.4084 OF 2016

ORDER:

Heard Sri Kiran Palakurthy, learned counsel for the revision petitioner, and Sri A.K. Kishore Reddy, learned counsel for respondent No.1. Though, process was completed on respondent No.2, none appears for it.

2. The order under challenge was passed on 21.03.2016 in I.A. No.130 of 2015 in S.O.P. No.1 of 2007 by the Junior Civil Judge at Bellampalli. On the ground that the petitioner was not present when the matter was called and there was no representation, dismissed the same for default.

3. I.A. No.130 of 2015 was filed to condone delay of 95 days in filing the petition for restoration of S.O.P. No.1 of 2007 to its file, which was dismissed for default on 13.06.2012 by the Junior Civil Judge, Asifabad. Of course, it is not known whether the application to set aside the dismissal order was rejected or any orders were passed. At this stage, either learned counsel expresses inability to say the result in the said application at SR stage. Be that as it may, learned counsel for the revision petitioner would represent that after the Junior Civil Judge's Court at Bellampalli was established, the matters pertaining to the jurisdictional limits of that Court were transferred to that Court from the Court of Junior Civil Judge at

Asifabad and no notice was issued to the parties, i.e., revision petitioner herein. Since the dismissal order is an *ex parte* order and the Court is obligated to send notices to the counsel on record as well as the parties, as different S.O.P. number would be assigned, in case it is restored, and since no notice appears to have been issued, the order passed would become defective. On that ground, the order under challenge in the instant revision petition is set aside restoring I.A. No.130 of 2015 in S.O.P. No.1 of 2007 on the file of the Junior Civil Judge at Bellampalli. The learned counsel for respondent No.1, since submitted that he was in fact present on the date when the order under challenge was passed, a counter can be filed on behalf of respondent No.1, in case no counter was filed. It is needless to say that the Court below would dispose of I.A. No.130 of 2015 on merits after hearing both the learned counsel.

4. With the above observations, this Civil Revision Petition is allowed. There shall be no order as to costs.

5. As a sequel thereto, miscellaneous applications, if any pending in the instant civil revision petition, shall stand closed.

4th November, 2016

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A. SHANKAR NARAYANA, J