

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

[Special Original Jurisdiction]

FRIDAY THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

CIVIL REVISION PETITIOIN NO. 1460 OF 2016

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Between:

Raviprolu Saroja

...

Petitioner

V/s.

Innamuri Venkatarathnam

...

Respondent

Counsel for the Petitioner :

Sri Koppula Gopal

Counsel for the Respondents:

None appeared

The Court made the following:

[order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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CIVIL REVISION PETITION NO. 1460 OF 2016
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ORDER:

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Heard Sri Koppula Gopal for the Revision
Petitioner/defendant. The defendant is the Revision Petitioner and
challenges the liberty granted by the trial court to
respondent/plaintiff to withdraw 1/4th of decree amount and suit
costs.

2. The defendant filed I.A.No. 807 of 2015 in OS.No. 25 of
2011 to set aside the ex-parte decree dated 18/6/2011. The trial
court as noted above imposed the condition of depositing 1/4th of
decree amount and suit cost on or before 24/2/2016 and permitted
the respondent/plaintiff to withdraw the amount so deposited. To
the extent of setting aside the ex-parte decree and imposing
condition though the order is very brief, as discretion is exercised
by the trial court to afford opportunity to the Revision
Petitioner/defendant, this court is not inclined to express any view
on the manner of consideration of prayer in I.A.No. 807 of 2015 by

the trial court. The fact that remains to be examined is whether without decree, the plaintiff can be permitted to withdraw the deposited amount. Assuming that the decree already passed shall be the basis for a direction to deposit still permitting the respondent/plaintiff to withdraw when the suit is pending, in the considered view of this court amounts to illegal exercise of discretion. The order in I.A.No. 807 of 2015 is modified as follows:

“ I.A.No. 807 of 2015 is allowed on deposit of 1/4th of the amount determined in the decree and suit costs on or before 06/4/2016. If the amount is not deposited within the extended time, it is needless to observe that the I.A. stands dismissed. The trial court is directed to dispose of the suit on or before 30/6/2016.”

3. The Civil Revision Petition is allowed in part. No costs.

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4. As a sequel, miscellaneous petitions if any, pending in this Civil Revision Petition shall stand closed.

JUSTICE S.V. BHATT

18/03/2016
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HONOURABLE SRI JUSTICE S.V. BHATT

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