

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION Nos. 4411 and 4416 of 2016

COMMON ORDER:

Since these two civil revision petitions arise out of O.S.No.359 of 2015 on the file of III Additional Junior Civil Judge, Ongole, Prakasam District, they are disposed of by this common order, after hearing the learned counsel for the petitioner-defendant and the learned counsel for the respondent-plaintiff.

The suit was filed by the respondent herein for permanent injunction in respect of the suit schedule property. When the suit was posted to 18.12.2015 for filing written statement, the petitioner-defendant did not file the same, as a result of which, he was set *ex parte* and the suit was posted for the evidence of the respondent-plaintiff. On 30.12.2015, the respondent-plaintiff was examined as P.W.1. At that stage, the petitioner filed I.A.No.2 of 2016 to set aside the *ex parte* order, dated 18.12.2015, and to permit him to file written statement. He also filed I.A.No.1 of 2016 to reopen the suit and to give an opportunity to contest the suit. In the affidavits filed in support of the said applications, the petitioner stated that on the dates of adjournment i.e. on 18.12.2015 and 30.12.2015, he was unable to consult his Advocate as he was sick and bedridden with flue and his Advocate informed that P.W.1 was examined and the suit was posted to 08.01.2016 for further consideration. The petitioner filed the present applications on 04.01.2016. The respondent did not file counters opposing the

applications. The trial Court by orders, dated 21.07.2016, dismissed the applications. Challenging the same, the present civil revision petitions are filed.

Now, the learned counsel for the petitioner submits that the petitioner filed the written statement and is ready to cooperate with the disposal of the suit.

In the circumstances, the civil revision petitions are allowed and the orders under revisions passed in I.A.Nos.1 and 2 of 2016 are set side. The petitioner is permitted to contest the suit. The trial Court shall receive the written statement filed by the petitioner, frame appropriate issues on the basis of such written statement and proceed with the suit from that stage. Consequently, I.A.Nos.1 of 2016 and 2 of 2016 are allowed on payment of costs of Rs.1,000/- payable to the respondent-plaintiff within a period of one week from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in these revisions shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:23.12.2016

kdl