

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.241 of 2016

ORDER:

In this Civil Revision Petition, the petitioner/respondent seeks to set aside the Docket Order dt. 8.01.2016 in I.A.No.561 of 2015 in FCOP No.61 of 2013 on the file of Judge, Family Court-Cum-Additional District Judge, Khammam, in dismissing the petition filed by him under Order 9 Rule 7 CPC.

The present petitioner is the respondent in FC OP No.61 of 2013, which was filed by his wife seeking divorce and in that matter, he appeared and contesting the OP. When the matter is posted for cross examination of witnesses on 10.06.2015, due to absence of the present petitioner on that date, he was set *ex parte*. Subsequently, he filed I.A.No.561 of 2015 under Order 9 Rule 7 CPC to set aside the *ex parte* order submitting that due to missing of train, he could not reach the Court in time. Dismissing his petition, the trial Court passed the impugned Order on 08.01.2016 as 'Heard Both. Petition is dismissed'.

Hence, the instant Civil Revision Petition.

Heard both sides.

Opposing the CRP, learned counsel for respondent herein vehemently contended that the present petitioner was not diligent in prosecuting the case before the trial Court as he was not attending the Court regularly and not cross examining the witnesses in time, which caused much inconvenience to the Court and other party and therefore, the trial Court rightly dismissed his petition. Learned counsel further submits that in case the petition is allowed, suitable conditions may be imposed.

Having regard to the fact that it is a matrimonial matter, wherein the

valuable marital rights of the parties are at stake, this Court is inclined to allow the C.R.P, of course on suitable terms.

Accordingly, this Civil Revision Petition is allowed and the impugned Order dt. 08.01.2016 in I.A.No.561 of 2015 in FCOP No.61 of 2013 on the file of Judge, Family Court-cum-Additional District Judge, Khammam, is set aside and consequently, I.A.No.561 of 2015 is allowed and *ex parte* Order dt. 10.06.2015 is set aside on condition of petitioner depositing costs of Rs.1000/- (Rupees One Thousand) before trial Court within a period of two weeks from the date of this Order and on further condition that he shall scrupulously prosecute his case to the satisfaction of trial Court. On such deposit, the respondent herein is permitted to withdraw the said amount.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 10.06.2016

eha

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.241 of 2016

Dt. 10.06.2016

eha