

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.4817 of 2016

ORDER:

The defendant, who went unsuccessful in I.A.No.123 of 2015 in O.S.No.462 of 2014 on the file of XVIII Additional Senior Civil Judge, City Civil Court, Hyderabad, which was filed with a wrong provision as referred under Order IX Rule 7 C.P.C. instead of quoting Section 151 C.P.C. r/w Order VIII C.P.C., to receive the written statement, since right is forfeited for its non-filing within the statutory time of 90 days contemplated by Order VIII amended C.P.C., though the right is forfeited on 02.02.2015, the petition to receive the written statement filed only on 27.03.2015, from which after hearing what the order of the lower Court impugned herein dated 10.12.2015 is that there was no ex parte order to invoke Order IX Rule 7 C.P.C. though the prayer is to receive the written statement by condoning delay in filing setting aside the forfeited right, maintained the revision.

2. Heard both sides at length and perused the material on record.

3. Having regard to the facts of the case and also from the expression of the Apex Court in Salem Advocate Bar Association, T.N. v. Union of India¹, the Court can invoke Section 151 C.P.C. in granting time, permitting to receive the

¹ (2005) 6 SC Cases 344

written statement, even right is forfeited for non-filing within 90 days, from subsequent filing on showing just cause.

4. Having regard to the above, the Civil Revision Petition is allowed to receive the written statement, subject to costs of Rs.4,000/- (Rupees Four thousand only) payable by the revision petitioner/defendant to the plaintiff, within one week after the date of receipt of a copy of this order. If costs not paid, written statement not re-submitted, defendant is not entitled to concession of filing written statement. It is needless to say, after filing of written statement, the Court can re-formulate the issues and give opportunity to the parties to adduce evidence and to proceed on merits for early disposal. No order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:27.10.2016

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