

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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CIVIL REVISION PETITION No. 290 of 2016

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ORDER:

This civil revision petition is filed against the order dated 21.09.2015 passed by the Judge, Additional Family Court, Hyderabad in I.A.No.717 of 2015 in O.P.No.1481 of 2013.

2. Brief facts of the case are as follows:

The respondent-husband filed O.P.No.1481 of 2013 before the Judge, Additional Family Court, Hyderabad, under Section 13(1a)(1b) of the Hindu Marriage Act, and Section 7 of the Family Courts Act, seeking divorce. The said O.P. came to be dismissed for default on 06.07.2015. The husband filed a restoration petition viz., I.A.No.717 of 2015. It is stated in the affidavit filed in support of the restoration petition that he is residing at 46, Poynders Road, London, U.K., and that he executed a Special Power of Attorney in favour of his father to represent him in the Court proceedings before the Additional Family Court, Hyderabad. And, on 06.07.2015 when the O.P. was coming up for hearing, there was no representation on his behalf and hence the O.P. was dismissed for non-prosecution. It is his case that when the matter was directed to be called on 06.07.2015, his counsel has mistakenly noted in his diary the next date of hearing as 16.07.2015 instead of 06.07.2015 and when

his counsel went to the Court on 16.07.2015 and verified, he came to know that the matter was called on 06.07.2015 and was dismissed for default. Hence, the respondent-husband prayed to allow the application and restore the O.P. stating that the absence of his father, who is his GPA holder, when the matter was called on 06.07.2015 was neither willful nor wanton and that it was a bonafide mistake that occurred due to erroneous noting of date in the diary of the counsel as 16.07.2015.

The learned Judge, observing that the applicant-husband has shown sufficient cause, allowed the application and thereby the O.P. stood restored to its file. Questioning the same, the present revision petition is filed.

3. Heard Smt. P. Bhavani, petitioner/party-in-person.

4. The dispute between the parties is a matrimonial dispute. The husband filed an Original Petition before the Family Court seeking divorce and authorized his father, by executing a Special Power of Attorney, to represent him in the case. When the Hon'ble Court directed to call the matter on 06.07.2015, the counsel for the husband erroneously made a note of the same in his diary as 16.07.2015 instead of 06.07.2015. As the counsel for the husband erroneously noted the date of next hearing as 16.07.2015, there was no representation on behalf of the husband when the matter was called on 06.07.2015, thereby the matter was dismissed for default.

Immediately, the husband filed an interlocutory application seeking restoration of the O.P., by duly explaining the reason for non-representation before the Court on 06.07.2015. The learned Judge, having been satisfied with the reasons stated by the husband in his affidavit, allowed the application, thereby the O.P., was restored.

5. The dispute being a matrimonial dispute, it would always be in the interest of justice to adjudicate such matters after giving opportunity to both the parties. As could be seen from the impugned order and also the affidavit filed in support of the I.A.No.717 of 2015, the reasons for non-appearance on behalf of the husband on 06.07.2015 appear to be bonafide and the learned Judge was satisfied with the reasons shown by the husband for non-representation of the matter on 06.07.2015 and hence restored the O.P.

6. In that view of the matter, I see no reason to interfere with the impugned order.

7. Accordingly, the civil revision petition is dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE G. CHANDRAIAH

26th February, 2016

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