

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

C.R.P. No.1205 of 2016

Between:

Mohd. Abid

...

Petitioner

And

Shanaz Sultana and others

...

Respondents

JUDGMENT PRONOUNCED ON 09.03.2016

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

C.R.P. No.1205 of 2016

ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the material on record.

This revision petition has been filed aggrieved by the order dated 10.02.2016 passed in I.A. No.709 of 2015 in O.S. No.614 of 2011 by the learned XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad.

The revision petitioner herein is the 3rd defendant and the respondents 1 and 2 herein are the plaintiffs and the respondents 3 to 15 herein are the other defendants in O.S. No.614 of 2011.

Brief facts of the case are that the suit was filed by the plaintiffs for partition and separate possession. As could be seen from the record, it appears that when the matter was posted for evidence of the 3rd defendant he did not chose to adduce any evidence on his behalf and therefore, the Court below closed his evidence and posted the matter for arguments. Thereafter, the 3rd defendant filed an application seeking to reopen his evidence but the same was dismissed by the Court below vide its impugned order observing as under:

“Heard both parties the respondents council submit that last 8 months the defendants not adduced any evidence, on clear perusal of the docket order there is no representation by the defendants, cost was also imposed, but not paid, gross negligence was found on the part of the petitioner. Hence this petition is dismissed.”

From the above, it is clear that even in spite of imposing costs, the 3rd defendant did not chose to adduce his evidence, therefore, the Court below closed his evidence and posted the matter for arguments. In that view of the matter, it cannot be said that the Court below had committed any error. But, however, having regard to the facts and circumstances of the case and with a view to give one more opportunity, in the interest of justice, impugned order is set aside subject to payment of Rs.2,000/- (rupees two

thousand only) to be paid to the District Legal Services Authority, along with the costs already imposed by the Court below on the earlier occasions, within a period of two weeks, from the date of receipt of a copy of this order.

Accordingly, this civil revision petition is disposed of.

As a sequel, miscellaneous petitions, if any, stands closed.

There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 19.03.2016
LSK