

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.3124 of 2016

ORDER:

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Heard Sri P.Narasimhulu for petitioner. In spite of service of notice vide USR No.4869, dated 03-08-2016 none appears for sole respondent.

The revision is directed against the order dated 22-03-2016 in I.A.No.1992 of 2015. The said application was filed by the revision petitioner herein seeking permission to conduct the matter by his power of attorney agent, viz., P.Mohammad Ali. The said application was dismissed on the ground that the defendant has not filed affidavit and the instant application does not conform to the requirements of Rule 33 of Civil Rules of Practice and Order III Rule 2 of Code of Civil Procedure, 1908. Hence the revision.

The counsel for the petitioner contends that dismissal of I.A.No.1992 of 2015 on the ground that affidavit is not filed is illegal for according to him, it is a curable defect, opportunity ought to have been awarded to the revision petitioner to make good deficiency.

Mr.P.Narasimhulu states that he is not taking exception to the reasoning adopted by the trial court but is on the limited ground that if opportunity is afforded, the revision petitioner would have certainly made good deficiency and the court could have had occasion to consider the prayer and to meet the ends of justice, appropriate order would have been passed.

I have perused the order impugned in the revision. The

application is dismissed as not maintainable for want of affidavit of defendant, instead of granting liberty to revision petitioner to file fresh application without defect. To meet the ends of justice and keep the applications as per requirements of law, this court is of the view that the order impugned in the revision can be set aside. I.A.No.1992 of 2015 is remitted to trial court for hearing afresh and disposal in accordance with law. The revision petitioner is given four(4) weeks time from today to file affidavit.

With the above observation, the civil revision petition is disposed of. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

S. V. BHATT, J

Dt: 10-08-2016

Note:

Issue CC by tomorrow

(B/o)

Prv

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10-08-2016

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