

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1547 of 2016

ORDER:

The present Civil Revision Petition is filed under Article 227 of the Constitution of India, aggrieved by the order dated 30.10.2015 passed in I.A.No.825 of 2013 in I.A.No.493 of 2013 in O.S.No.115 of 2013 on the file of the III Additional District Judge, Tirupati.

The facts in issue are as under:

The plaintiff filed a suit for declaration of his right and title and for perpetual injunction in respect of Items 1 and 2 of plaint schedule properties against the petitioner and also against the Government who are defendant Nos.1 and 2. The third defendant made its appearance through its standing counsel and sought time for filing written statement and the trial Court waited till 21.11.2013, and then passed an *ex-parte* order in IA and the suit. Then I.A.No.824/2013 came to be filed by defendant No.3 in the original suit under Order IX Rule 7 of C.P.C. to set aside the *exparte* order passed against defendant No.3; I.A.No.825/2013 was filed by defendant No.3 to set aside the *exparte* order passed against him in I.A.No.493 of 2013 filed under Order IX Rule 7 of C.P.C. and to receive the counter; and I.A.No.1195 of 2014 was filed by the plaintiff under Section 151 of C.P.C. to reject the written statement of defendant No.3 filed along with I.A.No.824 of 2013. Keeping in view various judgments and observations made, the trial Court allowed I.A.No.824 of 2013 setting aside the *exparte* order against

defendant No.3 in the suit dated 21.11.2013 and the written statement filed along with I.A.No.824 of 2013 was directed to be received by extending time, on payment of cost to the plaintiff on or before 20.11.2015 failing which the petition was directed to be dismissed. I.A.No.825 of 2013 was allowed setting aside the *ex-parte* order in I.A.No.493 of 2013 dated 21.11.2013 and the counter of respondent No.3 filed along with I.A.No.825 of 2013 was received by extending time on payment of costs to the plaintiff on or before 20.11.2015. Further, I.A.No.1195 of 2014 was dismissed without costs. Challenging the order in I.A.No.825 of 2013 in I.A.No.493 of 2013, the present revision is filed.

Learned counsel for the petitioner submits that there is no genuine reason in the grounds raised that the advocate traced out the records and prepared the counter one day prior to filing of the petition. Further, there is no evidence showing that the case bundle was misplaced and that the advocate for respondent No.1 was out of station. Further the suit is filed in the year 2013 and is still pending.

Since the suit is at threshold and even the issues in the suit were not settled, the Court below has rightly held that no prejudice would be caused to the plaintiff if an *ex-parte* order is set aside and written statement is received, as it would help to dispose of the suit on merits instead of default.

Having regard to the above and since the suit pending since few years, it is desirable, if the trial Court disposes the suit, in accordance with law, as early as possible, preferably within a period of four months to six months from the date or receipt of a copy of this order.

Accordingly, the Civil Revision Petition is disposed of.
There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if
any in this Civil Revision Petition, shall stand closed.

C. PRAVEEN KUMAR, J

15.07.2016
vhb