

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5664 OF 2016

ORDER:

The order sought to be set aside was passed on 09.11.2016 by the learned Principal Junior Civil Judge, Nizamabad, in I.A. No.809 of 2016 in O.S. No.146 of 2011, rejecting the request for re-opening the case and to afford an opportunity to lead evidence by the revision petitioners, who are defendants in the suit.

2. Though, service was completed on respondent No.1 - plaintiff, none appears for him.

3. According to the learned counsel for the petitioners - defendants, respondent No.2 - Commissioner of Municipal Corporation, Nizamabad, Nizamabad District is nothing to do with the controversy between the parties in the suit and, therefore, not a necessary party.

4. Heard Sri P. Lakshma Reddy, learned counsel for the petitioners - defendants.

5. Perused the order under challenge and the material on record.

6. As seen from the order under challenge, the plaintiff's side evidence was closed on 11.08.2016 and thereafter, the suit was listed for leading evidence on behalf of defendants. Having taken five (5)

adjournments, the defendants did not get ready. Despite conditional order was being passed to lead the evidence, it was violated. That has been the reason assigned by the trial Court to close the defendants' side evidence and posted the matter for arguments on 29.09.2016. The order also shows that the plaintiff has reported no objection, but the trial Court having not satisfied with the reasons assigned by the defendants, dismissed the application.

7. Learned counsel for the defendants has filed daily status report, computer generated docket proceedings, in regard to the proceedings in the suit to place the events prior to passing of the order.

8. None of the docket order (proceedings sheet) shown in the daily status report would reflect that the trial Court has passed any condition. Even otherwise, the trial Court has not recorded the nature of condition imposed in the order under challenge. Since determination of rights is involved in the suit, it would be desirable to set aside the order under challenge to afford an opportunity to the defendants to lead their evidence for rendering effectual and complete justice. It is also desirable that time frame has to be fixed as the defendants having taken five (5) adjournments, have not let in evidence leading to passing the order under challenge. Hence, the petitioners - defendants are directed to lead their evidence and complete their side within two (2) months from the date of receipt of a copy of this order.

9. Accordingly, the Civil Revision Petition is allowed as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the revision stand disposed of.

A. SHANKAR NARAYANA, J

December 2, 2016.

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