

HON'BLE SRI JUSTICE R. KANTHA RAO

Civil Revision Petition No.1067 of 2016

ORDER:

Heard Sri B.S.Kartik, learned counsel appearing for the revision petitioner/defendant. Though served with notice, the respondent/ plaintiff did not choose to appear before this court.

2 . This revision is directed against the order dated 18.12.2015 passed in IA No.697 of 2015 in IA No.832 of 2012 in OS No.272 of 2007 on the file of the Senior Civil Judge, Ramachandrapuram. The revision petitioner is the defendant in a suit filed by the respondent/plaintiff for recovery of certain amount. An *ex-parte* decree was passed against the revision petitioner. Then the revision petitioner filed IA No.832 of 2012 to set aside the *ex-parte* decree, which was dismissed for default on 13.04.2015. Thereafter, he filed IA No.697 of 2015 to restore said IA No.832 of 2012. It is submitted that in the affidavit filed in support of the petition, the petitioner stated that he met with an accident and on the advise of the doctor, he took rest for 20 days and therefore, he could not attend the court on 13.04.2015. The petitioner also filed medical certificate showing that he met with an accident and received some injuries in the accident. The learned trial court dismissed the petition on the ground that the X-ray report was not filed along with the medical certificate showing that the petitioner sustained any fracture.

3. The medical certificate filed by the petitioner reveals that he received some injuries. Besides, filing the medical certificate, the petitioner stated that he could not attend the court as he met with an accident. The learned trial court, in my view, ought not to have dismissed the petition on a hyper technical ground. The petitioner

has shown sufficient cause to restore IA No.832 of 2012. The finding recorded by the trial court, being erroneous, is required to be set aside in the present revision petition. Consequently, the order passed by the trial court in IA No.697 of 2015 is set aside and the IA No.832 of 2012 is restored to file.

4. The civil revision petition is accordingly allowed. No order as to costs. Miscellaneous petitions, pending if any in this case, shall stand closed.

R. KANTHA RAO, J

Date: 07.04.2016
BSS

HON'BLE SRI JUSTICE R. KANTHA RAO

58

Civil Revision Petition No.1067 of 2016

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

Date: 07.04.2016

BSS