

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.4700 of 2016

ORDER:

Heard both sides at length.

2. The impugned order dated 22.04.2016 in I.A.No.54 of 2016 in O.S.No.2554 of 2013 on the file of IV Junior Civil Judge, City Civil Court, Hyderabad, dismissing the application to set aside the ex parte order by forfeiting the right of filing of written statement in the suit, sought for set aside the same, in saying the application ought to have allowed.

3. The expression of the Apex Court in Salem Advocate Bar Association, T.N. v. Union of India<sup>1</sup> says even the outer limit is 90 days, the Court got discretion to permit even the right is forfeited, if there is sufficient cause shown for earlier non- filing within the period, to receive. However, there are no worth reasons, but for saying only on change of counsel it came to know and a party cannot sleep over expecting without his signature, even an advocate to file written statement. But, when it is the settled law that any matter, the Court has to see that to be decided on contest rather than ex parte or without participation for effective adjudication of the lis in equity to sub-serve the ends of justice, it is a fit

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<sup>1</sup> (2005) 6 SC Cases 344

case to impose heavy costs to file written statement by fixing time and allowed subject to costs of Rs.10,000/- payable to the plaintiff and filing of written statement before the trial Court on or before 21.11.2016.

4. Accordingly, the Civil Revision Petition is allowed setting aside the order in I.A.No.54 of 2016 in O.S.No.2554 of 2013 on the file of IV Junior Civil Judge, City Civil Court, Hyderabad and I.A.No.54 of 2016 is allowed, subject to payment of costs of Rs.10,000/- (Rupees Ten thousand only) payable to the plaintiff and filing of written statement before the trial Court on or before 21.11.2016. If any non-compliance of the same, the order ceases its force on 21.11.2016, upholding the impugned order of the lower Court. No order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

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Dr. B. SIVA SANKARA RAO, J

Date:04.11.2016

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