

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.3961 of 2017

ORDER:

Heard Sri Azim Parbatani, learned counsel for the revision petitioner.

2. It is proposed to dispose of the present revision, at the admission stage itself, for the reason that the respondents' appearance is not necessary, in view of the order that would be passed as hereunder.

3. According to the learned counsel for the revision petitioner I.A.No.74 of 2016 was filed to receive the documents under Order XIII Rule 2 read with 151 of C.P.C., by the defendants. As there was no representation for the defendants, the said I.A. was dismissed for default, by the learned Junior Civil Judge, Banswada, on 27-10-2016. Learned counsel also drawn attention to the said order, which speaks thus:

"No representation on behalf of defendants, inspite of giving conditional order petitioner failed to deposit process.

Hence, the petition is dismissed for default."

4. Learned counsel would further submit that despite the same the defendants once again moved I.A.No.32 of 2017 for the very same purpose. It was contested bringing to the notice

of the learned Junior Civil Judge as to the dismissal of similar earlier application in I.A.No.74 of 2016. Learned Junior Civil Judge, making elaborate discussion dismissed I.A.No.32 of 2017, on 20-07-2017.

5. Learned counsel would submit that the defendants without pursuing the said order filed yet another application in I.A.No.93 of 2017 under Section 5 of Limitation Act read with under Section 151 of C.P.C., to condone the delay of 243 days, in making an application to restore I.A.No.74 of 2016 and according to the learned counsel the same would amount to abuse of process of Court and that has been the reason the present revision petition is filed to revise the orders in numbering I.A.No.93 of 2017.

6. Learned counsel would submit that on 03-08-2017 counter was filed in I.A.No.93 of 2017. In such an event, the revision petitioner is at liberty to agitate what all has been agitated now, before the learned Junior Civil Judge, Banswada, including the conduct of the defendants in filing successive applications on one pretext or the other in the direction of abuse of process of Court.

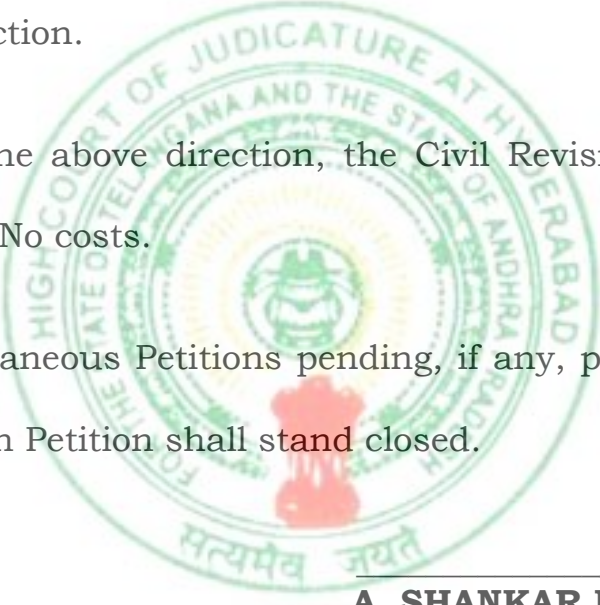
7. Since counter is already filed it is desirable that a direction can be given to the learned Junior Civil Judge,

Banswada, to dispose of I.A.No.93 of 2017, in accordance with law, by fixing timeline.

8. Learned Junior Civil Judge, Banswada, is therefore, directed to afford an opportunity to both sides and dispose of I.A.No.93 of 2017, in accordance with law, within 15 days from the date of receipt of a copy of the order. Both the parties are directed to co-operate with the Court so as to enable the learned Junior Civil Judge to comply with the present direction.

9. With the above direction, the Civil Revision Petition is disposed of. No costs.

10. Miscellaneous Petitions pending, if any, pending in this Civil Revision Petition shall stand closed.

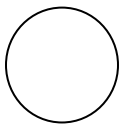


A. SHANKAR NARAYANA, J

August 11, 2017

*Note: Furnish C.C.
today. B/o.Pn*

HON’BLE SRI JUSTICE A. SHANKAR NARAYANA



CIVIL REVISION PETITION No.3961 of 2017

TYPED & SENT	11-08-17	PN
WEB		
LR FOLDER	-	-
RETYPE		

August 11, 2017

*Note: Furnish C.C.
today. B/o.Pn*