

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.1336 OF 2017

ORDER:

The present Civil Revision Petition is filed to set aside the order, dated 19.11.2016, in I.A. No.835 of 2016 in O.S. No.35 of 2014, on the file of the Principal Junior Civil Judge, Mancherial.

2. The petitioner herein is the plaintiff in the aforesaid suit, while respondent is the defendant. In the said suit, he sought the relief of declaration of his title and recovery of possession to an extent of 28 square yards in respect of the alleged illegal construction made by the respondent and for positive mandatory direction to dismantle the said wall.

3. Heard Sri Krishna C.V. Grandhi, learned counsel for the petitioner.

4. As could be seen from the order under challenge that on 14.10.2015, since the petitioner was absent and there was no representation on his behalf, the Court below having made certain observations in regard to the earlier sequence of events and also keeping in view, that the defendant was present and reported ready, dismissed the suit having opined that there was no reason to adjourn the matter.

5. The learned counsel would submit that on 14.10.2015, the advocates were abstaining from attending Courts. The Court below

having referred to the provisions of Order IX, Rule 4 of Code of Civil Procedure, 1908, however, disbelieved the medical certificate filed by the petitioner issued by one Dr. M. Rajam of Sri Raja Nursing Home, Godavarikhani. The Court below has even made a comment that the said certificate appears to be fabricated document as it does not contain the nature of treatment, nor any material is filed to substantiate the ailment mentioned in the said certificate. The Court below placing reliance on the ruling in **Parimal v. Veena**¹, rendered by the Hon'ble Supreme Court in regard to the expression 'sufficient cause' having not satisfied, dismissed the petition.

6. It is no doubt true, that the medical certificate does not contain the elaboration of the ailment mentioned therein, but it does not mean that the certificate is a fabricated document. In a suit for determination of rights, ends of justice is the prime object and, therefore, the order under challenge is liable to be set aside and, accordingly, set aside.

In view of the aforesaid discussion, the Civil Revision Petition is allowed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

A. SHANKAR NARAYANA, J

April 07, 2017.
Mgr

¹. (2011) 3 SCC 545