

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P. No.3542 OF 2017

ORDER : (oral)

Vide the present petition, the petitioner has challenged the order dated 23.01.2017 passed in I.A. No.1885 of 2008 in O.S.No.377 of 2005 by the Principal Senior Civil Judge, Guntur.

2. The aforesaid I.A. was filed under Order IX Rule 4 of CPC to set aside the dismissal order dated 30.01.2006.

3. The respondent filed the original suit for specific performance of the agreement of sale dated 18.01.2002. The respondent assigned the reason for non-appearance before the Court and for non-payment of process is that he suffered illness and could not contact the advocate.

4. It is not in dispute that the respondent filed I.A. No.775 of 2006 to condone the delay in filing the petition and the said petition was allowed on condition vide order dated 11.12.2005.

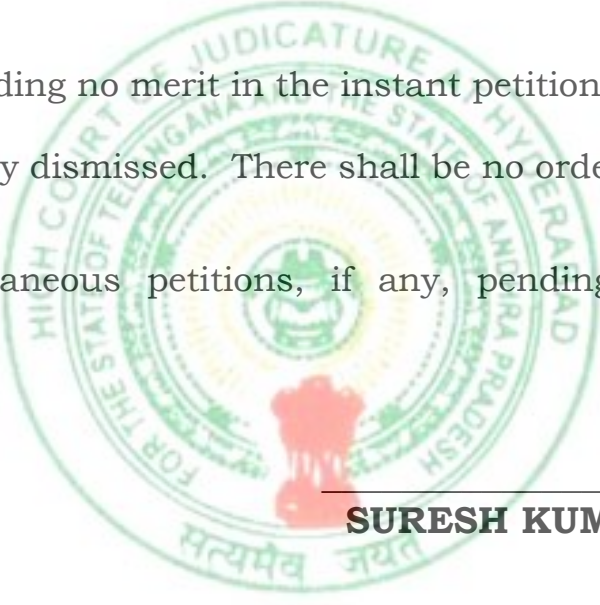
5. As argued by the learned counsel for the petitioner herein that the respondent has failed to file any proof of suffering illness and the trial Court while ignoring the same fact has allowed I.A.No.1885 of 2008 on payment of costs of Rs.100/-.

6. I note, the learned trial Court noted and has observed in the impugned order that mere not filing of medical certificate illness of the respondent cannot be disbelieved, since the suit is in respect of immovable property and opportunity can be given to contest the matter.

7. In view of the above facts and circumstances of the case, I am of the considered opinion that there is no illegality or perversity in the order dated 23.01.2017 passed by the trial Court in I.A. No.1885 of 2008 in O.S.No.377 of 2005.

8. Finding no merit in the instant petition and the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.



SURESH KUMAR KAIT, J.

Date : 22-12-2017
Gvl