

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.1239 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners-respondents 2 and 3, being aggrieved by the order dated 14.09.2016 passed in I.A.No.152 of 2016 in I.P.No.40 of 2015 by the Additional Senior Civil Judge, Tirupati.

In spite of service of notice on respondents 2 to 4, none appears for the respondents.

Heard the learned counsel for the petitioners.

The facts leading to filing of the Civil Revision Petition are that the petitioners herein made an application under Order IX Rule 7 of the Code of Civil Procedure, vide I.A.No.152 of 2016, seeking to set aside the order dated 12.07.2016, whereby the petitioners herein were set *ex parte* by the Court below. The reason assigned by the Court below for dismissing the IA was that no sufficient caused was shown by the petitioners for setting aside the order of *ex parte*. The Court below also observed that *in spite* of giving sufficient opportunities, the petitioners failed to file counter or represent in the I.P. Aggrieved by the same, present revision is filed.

However, as submitted by the learned counsel for the petitioners, in connection with the very same I.P, the Court below by order dated 02.12.2016 entertained the application in I.A.No.238/2016 made by the first respondent in the I.P., seeking to set aside the order dated 12.07.2016, on payment of costs, whereby

the petitioner therein as well as the petitioners herein were set *ex parte*. It is stated that the said order has become final.

As seen from the copy of order passed in I.A.No.238/2016, the Court below allowed the request of the petitioner therein for setting aside the order dated 12.07.2016 accepting the plea of the petitioner that he was suffering with Jaundice and taking country treatment for the same and as such could not pursue the I.P. The reasons assigned by the petitioners herein are that the first petitioner herein was suffering with viral fever and the second petitioner herein went to Bangalore on some personal works, as such they could not appear before the Court below. No documentary material has been placed to substantiate the same. Even in I.A.No.238/2016 no material was filed to show that the petitioner therein took treatment for Jaundice.

Having perused the entire material on record, this Court is of the view that no prejudice would be caused, if the petitioners herein are allowed to contest the I.P., since the application filed by another respondent in the I.P. was allowed by setting aside the order dated 12.07.2016.

Therefore, the Civil Revision Petition is allowed setting aside the order dated 14.09.2016 passed in I.A.No.152 of 2016 in I.P.No.40 of 2015 by the Additional Senior Civil Judge, Tirupati.

Miscellaneous petitions pending in this revision, if any, shall stand closed. No costs.

C. PRAVEEN KUMAR, J

11.07.2017

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