

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 5305 of 2017

ORDER:

1) Assailing the order, dated 02.06.2017 passed in I.A.No.1106 of 2016 in I.A.No.805 of 2016 in O.S.No.131 of 2016 on the file of the Junior Civil Judge, Razole, wherein and whereunder a petition filed under Order 9 Rule 7 and Section 151 of C.P.C. to set aside the *exparte* order dated 22.09.2016 passed against the defendant and also permit her to file counter and written statement to prove her case was allowed, the present Civil Revision Petition is filed by the plaintiffs under Article 227 of the Constitution of India.

2) Sri K.S.Murthy, learned counsel for the petitioners would submit that the order which has been passed by the trial Court is bereft of reasons. His plea is that there cannot be two reliefs in one application. In support of the same, he relies upon a judgment of this Court in *Sami Ateeq Ahmed v. Mohammed Rafiq Khan and others*¹.

3) Learned counsel for the respondent would submit that the present application came to be filed within a week from the date of *exparte* order as such it would be just and proper to set aside the *exparte* order. He further submits that the order under challenge warrants no interference.

¹ (2016) 6 ALD 140

4) It is to be noted here that the ground on which the application was allowed is that the defendant has filed her written statement along with the application to show her bonafides. As such, it would be just and proper to dispose of the matter on merits instead of deciding the same on technicalities. The objection raised by the plaintiffs in the counter was with regard to maintainability of single application for two reliefs, which was not considered.

5) Having regard to the above, the order under challenge is *set aside* and the matter is remanded back to the trial Court to decide the same basing on the counter filed and the objection raised as early as possible.

6) With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs.

7) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

24.11.2017
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