

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.3053 OF 2017

ORDER:

Heard counsel for the revision petitioner and perused the grounds of revision and the impugned order of the lower court in rejecting the memo of the petitioner by order dated 28.04.2017 filed complaining non-compliance of the sending of the documents with the pleadings pursuant to the *ex parte* injunction order obtained by the plaintiff, to the defendant.

2. The operative portion of the impugned order reads that 'in the instant case, plaintiff complied Order 39 Rule 3 of C.P.C. as respondent made appearance. Both parties are directed to proceed with main I.A.No.159 of 2017. In view of above discussion, Memo deserves to be rejected'.

3. There is nothing discussed of what is the proper compliance for the compliance is even mandatory from the expressions placed reliance by both sides, in the impugned order.

4. In view of the facts and circumstances of the case, if it is a disputed question of fact to decide, the lower court instead of rejecting the memo asked both parties to get ready for early disposal of the main *ex parte* injunction application

from the counter already filed by the defendants to consider therein the issue covered by the memo also.

5. Having regard to the above and in the result the revision petition is allowed and the order of rejection of the memo is set aside and the lower court is directed to dispose of the injunction application, with reference to the counter by hearing on merits within two weeks from the date of receipt of a copy of this order and also decide therein the issue covered by the memo.

6. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

30.06.2017
SS

DR.B.SIVA SANKARA RAO, J

