

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.679 OF 2018

ORDER:

This civil revision petition is filed under Section 115 of CPC challenging the order dated 03.10.2017 in I.A. No.1024 of 2017 in O.S. No.7 of 2017 on the file of the Court of District Judge, Mahabubnagar.

2. The respondent herein filed O.S.No.7 of 2017 on the file of the Court of District Judge, Mahabubnagar against the petitioner for recovery of an amount of Rs.16,23,600/-. The petitioner did not choose to file written statement within the stipulated period of 90 days from the date of receipt of summons in the suit. The trial Court decreed the suit in favour of the respondent on 12.6.2017. The respondent filed I.A.No.1024 of 2017 under Order IX Rule 13 of CPC seeking to set aside the same. The trial Court, by impugned order dated 03.10.2017, dismissed the I.A. Hence, the revision.

3. Heard the learned counsel for both the parties.

4. A perusal of the record reveals that the even without the respondent proving the execution of suit promissory note, by adducing oral and documentary evidence, the trial Court decreed the suit in favour of the respondent-plaintiff. The trial Court has not assigned reasons much less cogent and valid reasons while dismissing the petition. Mere non-filing of the medical certificate itself is not a valid ground to dismiss the petition. The Court has to take into consideration the totality of the facts and circumstances of the case while passing an order in the interlocutory applications. If the impugned order is allowed to stand, it would amount to miscarriage of justice.

5. Having regard to the facts and circumstances of the case, this Court is of considered view that it is a fit case to set aside the impugned order dated 03.10.2017.

6. In the result, the civil revision petition is allowed, setting aside the order dated 03.10.2017 and consequently I.A. No.1024 of 2017 in O.S. No.7 of 2017 on the file of the Court of District Judge, Mahabubnagar is allowed, setting aside the *ex parte* decree dated 12.6.2017 in O.S.No.7 of 2017 on the condition of petitioner depositing costs of suit on or before 16.7.2018 to the credit of the suit. If the petition fails to deposit the costs of the suit within the stipulated time, I.A.No.1024 of 2017 stands dismissed automatically. The petitioner shall also file his written statement on or before 16.7.2018. Miscellaneous petitions if any pending in this revision petition shall stand closed.

Date: 14.6.2018
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T.SUNIL CHOWDARY, J.

