

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.389 of 2016

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the order dated 30.11.2015 passed in I.A.No.2010 of 2014 in O.S.No.205 of 2010 on the file of the Court of XXV Additional Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for the petitioners and learned counsel for the respondents.

3. The petitioners herein filed the suit against the respondents herein for recovery of an amount of Rs.36,98,125/-. On 02.6.2014, the trial Court passed *ex parte* decree. The respondents filed I.A.No.2010 of 2014 under Order IX Rule 13 of CPC to set aside the *ex parte* decree. The petitioners have filed counter opposing the petition. The trial Court, after considering the material available on record, allowed the petition on condition of the respondents depositing into the trial Court an amount of Rs.85,536/- towards costs of the suit on or before 21.12.2015.

4. At the time of hearing, learned counsel for both the parties submitted that the respondents have deposited the amount.

5. A perusal of the record reveals that learned counsel for the respondents have wrongly noted the date of adjournment as 28.4.2014 instead of 25.3.2014. Non-representation on behalf of the respondents on 25.3.2014 forced the trial Court to pass the *ex*

parte decree. The fact remains that the respondents have filed I.A.No.2010 of 2014 before the trial Court on 01.7.2014 i.e., within the period of limitation. The trial Court, after considering the material available on record, allowed the petition, as stated *supra*. Hence, the petitioners filed the present revision petition.

6. While deciding the petitions of this nature, the approach of the Court shall be pragmatic but not pedantic. If the petition is not allowed, it may not be possible for the respondents to ventilate their legitimate and legal grievances. Even if the petition is allowed, the same may not cause any prejudice to the petitioners. The trial Court has exercised discretionary power judiciously. It is needless to say that this Court shall not lightly interfere with the discretionary orders passed by the Courts below. The trial Court has assigned reasons much less cogent and valid reasons to its findings. There is no illegality, irregularity or impropriety in the impugned order, which warrants interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

7. At the time of arguments, learned counsel for the petitioners submitted that some time may be fixed for disposal of the main suit and the petitioners may be permitted to withdraw Rs.85,536/- deposited by the respondents towards costs of the suit. A perusal of the record reveals that the suit is of the year 2010. If no time is fixed, the possibility of delaying the matter by the respondents, on one pretext or the other, cannot be ruled out completely.

8. Having regard to the facts and circumstances of the case, the trial Court is hereby directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. If the respondents fail to co-operate for disposal of the suit, within the time stipulated, the trial Court shall proceed in accordance with law. The petitioners are permitted to withdraw Rs.85,536/- deposited by the respondents towards costs of the suit.

9. With the above directions, the civil revision petition is dismissed. No order as to costs in this revision. Miscellaneous petitions, if any pending in this revision shall stand closed.

Date: 22.11.2018
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T.SUNIL CHOWDARY, J

