

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.995 of 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 28.12.2015 passed in I.A.No.798 of 2015 in O.S.No.26 of 2007 on the file of the Court of the XI Additional District Judge (F.T.C.), Ranga Reddy District.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the second respondent filed O.S.No.26 of 2007 on the file of the Court of the XI Additional District Judge (F.T.C.), Ranga Reddy District, against the petitioner and other respondents for partition of the suit schedule property. During pendency of the suit, the first respondent filed I.A.No.798 of 2015, under Order VIII Rule 1(a) read with Section 151 C.P.C. to receive the documents by condoning the delay in filing the petition. The trial Court, after affording a reasonable opportunity to both parties, allowed the petition. Hence, the revision.

4. The point that arises for consideration is:

"Whether there is any illegality, irregularity or impropriety in the order of the trial Court?"

5. Learned counsel for both parties submitted that the second respondent filed O.S.No.26 of 2007 against the petitioner and other respondents for partition of the suit schedule property. They further submitted that the first respondent is defendant No.3 in the main suit. The contention of the learned counsel for the petitioner is that the first respondent was set *ex parte* in the main suit. The first respondent without filing a petition to set aside the

ex parte order passed against him, filed the present interlocutory application to receive the documents. The petitioner filed an elaborate counter before the trial Court. Whether the first respondent was set *ex parte* or not is very much available in the trial Court record. If this Court expresses any opinion on this aspect, it may cause prejudice to one of the parties to the proceedings. Moreover, the trial Court has not passed a reasoned order. If the order of the trial Court is allowed to stand, certainly it would amount to miscarriage of justice. The trial Court has not assigned reasons much less cogent and valid reasons while allowing the petition. Therefore, it is a fit case to allow the revision and remand the matter to the trial Court for fresh disposal.

6. In the result, the Civil Revision Petition is allowed, setting aside the order dated 28.12.2015 passed in I.A.No.798 of 2015 in O.S.No.26 of 2007 on the file of the Court of the XI Additional District Judge (F.T.C.), Ranga Reddy District. The trial Court is hereby directed to dispose of I.A.No.798 of 2015, after taking into consideration whether the first respondent, who filed the I.A., was remained *ex parte* or not. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 07.09.2018

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