

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.5259 of 2017

ORDER : (Oral)

Vide the present petition, petitioner has assailed the order dated 06.01.2017, passed by the II Additional Senior Civil Judge (FTC), Guntur, FAC: Senior Civil Judge, Bapatla, in I.A.No.483 of 2015 in I.A.No.1382 of 2012 in O.S.No.98 of 2001.

2. The present petition is filed on the ground that the lower Court failed to take into account the fact that the petitioner herein was suffering from Cancer and had to undergo immediate medical treatment in hospitals at Hyderabad and Bangalore, and hence, he could not be reasonably expected to appear on 29th April 2013, which fell during the period in which he was undergoing medical treatment.

3. Learned counsel appearing on behalf of petitioner submits that if the *ex parte* order dated 29th April 2013 is not set aside and if the petitioner is not permitted to contest the application for appointment of Receiver, grave injustice would be caused to him.

4. The ground taken before the trial Court for setting aside the *ex parte* order dated 29th April 2013 was that the petitioner was

suffering from Cancer and took treatment in various hospitals, but failed to produce any medical record in proof of the same. Therefore, the trial Court found no substance in the submission of the petitioner and dismissed the I.A.

5. The petitioner has filed certain documents before this Court. These documents relate to some medical tests got done in 2008 from Vijaya Diagnostic Centre, Himayatnagar, Hyderabad and some tests at Indo-American Cancer Institute & Research Centre, Hyderabad. But, all the documents are of the year 2008, except one document, dated 22.09.2015, filed at page No.25, from Janardhani Hospital. In this document, it is certified that the petitioner was suffering from Lymph nodal Cancer in August 2008 and had been coming for check-up every year. But, the fact remains that there is no record of petitioner taking any medical treatment after 2008 or any medicines suggested by any Doctor, whereas, the *ex parte* order was passed on 29th April 2013.

6. In view of the above, I find no illegality or perversity in the order passed by the Court below. Accordingly, I hereby confirm the same.

7. The revision petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

25th January 2018

ajr

