

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.5001 of 2016

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 12.11.2015 passed in I.A.No.138 of 2015 in O.S.No.87 of 2011 on the file of Principal Junior Civil Judge Court, Ranga Reddy District, at L.B.Nagar.

2. Heard Sri K.Pradeep Reddy, learned counsel for the petitioner and Sri Sampath Prabhakar Reddy, learned standing counsel for GHMC appearing for the respondents and perused the material on record.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity and impropriety in the impugned order?”

4. A perusal of the record reveals that the petitioner filed O.S.No.87 of 2011 on the file of Principal Junior Civil Judge Court, Ranga Reddy District, at L.B.Nagar, against the respondents seeking perpetual injunction in respect of the suit schedule property. For one reason or the other, the respondents did not contest the suit. Having no other alternative, the trial Court decreed the suit *ex parte* in favour of the petitioner against the respondents on 18.01.2012. While things stood thus, the respondents filed I.A.No.138 of 2015 under Section 5 of the Limitation Act to condone the delay of 1116 days in filing the petition to set aside the *ex parte* decree dated 18.01.2012. The trial Court allowed the petition condoning the delay. Hence, the revision.

5. The predominant contention of the learned counsel for the petitioner is that the trial Court without serving notice on the

petitioner, allowed the petition by condoning the delay of 1116 days. A perusal of the record also reveals that no notice was served on the petitioner. The Court has to order notice to the opposite party in order to decide the interlocutory applications on merits. For one reason or other, notice was not served on the petitioner in this case. If the revision petition is not allowed, it may cause untold hardship to the petitioner. Even if the revision petition is allowed, the same may not cause any prejudice to the respondents. Taking into consideration the facts and circumstances of the case, this Court is of a considered view that it is a fit case to set aside the impugned order 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 12.11.2015 passed in I.A.No.138 of 2015. Consequently, I.A.No.138 of 2015 in O.S.No.87 of 2011 is restored and remanded to the trial Court. The learned Principal Junior Civil Judge, Ranga Reddy District, at L.B.Nagar, is hereby directed to dispose of I.A.No.138 of 2015 in O.S.No.87 of 2011 afresh in accordance with law, after affording a reasonable opportunity to both parties, more particularly, to the petitioner. No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:20.12.2018

Rns