

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.2548 of 2017

ORDER:

This civil revision petition is filed by the petitioner-defendant, under Article 227 of Constitution of India, assailing the order dated 07.3.2017 passed in I.A.No.995 of 2016 in O.S.No.411 of 2010 on the file of the Court of XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad.

2. Heard the learned counsel for both the parties.

3. The respondent filed O.S.No.411 of 2010 seeking a direction to the petitioner to execute registered sale deed in favour of the respondent in respect of the House property bearing Municipal No.9-4-134/40, Toli Chowki, Hyderabad and consequential perpetual injunction. After completion of respondent's side evidence, the matter was posted for petitioner's side evidence. The petitioner did not choose to adduce evidence. The trial Court closed the evidence on behalf of the petitioner on 03.8.2016. Thereafter, the petitioner filed the petition under Order IX Rule 7 of CPC to set aside the order dated 03.8.2016 and permit the petitioner to adduce evidence on his behalf. The trial Court, after affording reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. A perusal of the record reveals that for one reason or the other, the petitioner could not adduce evidence on his behalf before 03.8.2016. The trial Court, having no other alternative, on 03.8.2016, closed the evidence on behalf of the petitioner. The record further reveals that the petitioner could not adduce evidence due to boycott call given by the Members of the Bar. If no

opportunity is given to the petitioner to adduce evidence, in order to substantiate his case, it may cause prejudice to the petitioner. On the other hand, even if the petition is allowed, no prejudice would be caused to the respondent. The explanation offered by the petitioner for non-adducing of evidence on his behalf of, is cogent and convincing. The trial Court has not considered the reason for non-appearance of the petitioner before the trial Court. If the order of the trial Court is allowed to stand, it would certainly amount to miscarriage of justice.

5. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to allow the revision petition.

6. In the result, the civil revision petition is allowed, setting aside the order dated 07.3.2017 passed in I.A.No.995 of 2016. Consequently, I.A.No.995 of 2016 in O.S.No.411 of 2010 on the file of the Court of XIII Additional Chief Judge (FTC), City Civil Court at Hyderabad is allowed. The trial Court is hereby directed to dispose of O.S.No.411 of 2010 as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order. If the petitioner fails to cooperate, in disposing of the suit within the stipulated period, the trial Court is at liberty to proceed in accordance with law. Miscellaneous petitions if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 19.7.2018
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