

HON'BLE SRI JUSTICE P. NAVEEN RAO
CIVIL REVISION PETITION No.4527 OF 2018

ORDER:

Petitioner herein is defendant No.1 in O.S. No.143 of 2009. The petitioner and another defendant were set *ex parte* by the order dated 09.06.2009. Thereafter, the defendants' side evidence was closed and is coming up for evidence of the plaintiff in the connected suit in O.S. No.201 of 2009. At this stage, the petitioner filed I.A. No.415 of 2018 to set aside the *ex parte* order dated 09.06.2009 and to permit her to proceed with the case.

2. In the affidavit filed in support of the petition, the petitioner has taken a plea that she has been suffering from all health problems related to her age which made her unable to approach her counsel and that her son left the house and his whereabouts are not known, and, therefore, there was no other person to help her in identifying stage of the suit.

3. However, it is appropriate to note the averments in paragraph No.3 of the affidavit filed in support of the petition. It is averred that the petitioner came to know through her earlier counsel that her purchasers filed O.S. No.201 of 2009 before the same Court against the plaintiff and the said suit is pending. She further avers that she recently came to know about setting her *ex parte* on the ground of non-filing written statement. This contention of the petitioner is not found favour with the trial Court and the trial Court accordingly rejected it.

4. A reading of paragraph No.8 of the order against which this revision is preferred, it is clear that the plea taken by the petitioner is not valid. She was set *ex parte* on 09.06.2009 and no further steps were taken. Along with her, her son is also a defendant. He has also not taken any steps. On one hand, the petitioner sought to contend that she could not contact her counsel and on the other, she avers that recently, her counsel informed about filing of another suit. Therefore, this Court do not see any error in rejecting the plea of the petitioner to set aside the *ex parte* order dated 09.06.2009 in an application filed after nine (9) years.

5. Therefore, the Civil Revision Petition fails and is accordingly dismissed. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Civil Revision Petition stand closed.

P. NAVEEN RAO, J

August 31, 2018.

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