

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.216 OF 2017

ORDER:

1 This Civil Revision Petition is filed under Article 227 of the Constitution of India aggrieved by the order dated 08.11.2016 passed in I.A.No.969 of 2016 in I.A.No.1603 of 2012 in O.S.No.166 of 2008 on the file of the Court of the Senior Civil Judge, Chirala.

2 Heard the learned counsel for the petitioner and respondents and perused the record.

3 A perusal of the record reveals that the respondent Nos.1 to 7 herein filed O.S.No.166 of 2008 on the file of the Court of the Senior Civil Judge, Chirala against the petitioner and respondent Nos.8 to 14 for declaration and consequential perpetual injunction in respect of the suit schedule property. The trial court dismissed the suit for default on 12.04.2012. On 23.4.2012 the respondent Nos.1 to 7 filed I.A.No.1603 of 2012 for restoration of the suit. For one reason or the other, the petitioner and the respondent Nos.8 to 14 did not chose to file counter nearly for a period of 2 ½ years. The petitioner alone filed I.A.No.969 of 2016 in I.A.No.1603 of 2012 to receive counter. The trial court dismissed the petition. Hence the present revision.

4 For one reason or the other, the petitioner did not chose to file counter in I.A.No.1603 of 2012 for a period of 2 ½ years. Even if the counter is received, the same may not cause any prejudice to the respondents, more particularly, respondent Nos.1 to 7 who are plaintiffs in the suit. The approach of the Court shall be pragmatic and not pedantic while disposing of this type of petitions.

5 Having regard to the facts and circumstances of the case, this court is of the considered view that this is a fit case to allow the revision. Accordingly this Civil Revision Petition is allowed, setting aside the order dated 08.11.2016 passed in I.A.No.969 of 2016 in I.A.No.1603 of 2012 in O.S.No.166 of 2008 on the file of the Court of the Senior Civil Judge, Chirala. Consequently I.A.No.969 of 2016 stands allowed to receive counter of the petitioner.

6 Both counsel submitted that the trial court may be directed to dispose of I.A.No.1603 of 2012 as expeditiously as possible. In view of the submission made by the learned counsel for both parties, the trial court is hereby directed to dispose of I.A.No.1603 of 2012 as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this order. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand dismissed.

T.SUNIL CHOWDARY, J

Date: July 2, 2018
Kvsn