

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

C.M.A.No.854 of 2018 and C.R.P.Nos.4695 and 4699 of 2018

26.09.2018

Between:

Narra Krishna Rao

..Appellant/Petitioner/Defendant

and

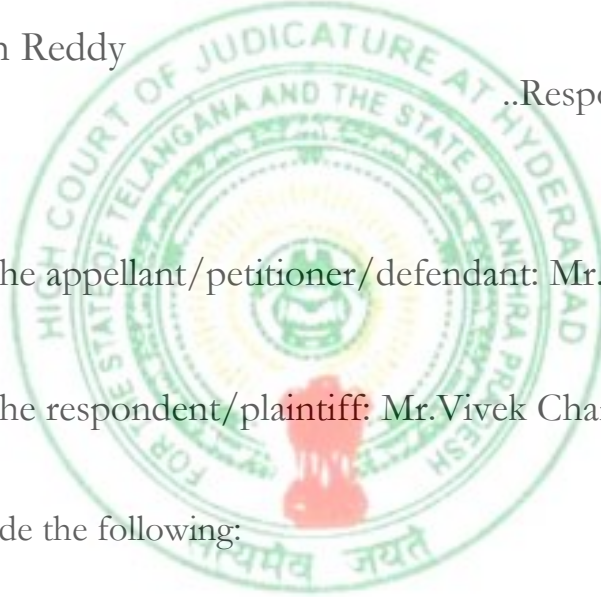
P.Venkatram Reddy

..Respondent/Plaintiff

Counsel for the appellant/petitioner/defendant: Mr.Pullu Rao
Yellanki

Counsel for the respondent/plaintiff: Mr.Vivek Chandra Sekhar S

The Court made the following:



COMMON JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The defendant in O.S.No.208 of 2013 on the file of the learned Chief Judge, City Civil Court, Hyderabad, filed C.M.A.No.854 of 2018 and C.R.P.Nos.4695 and 4699 of 2018.

2. For convenience, the parties are referred to as they are arrayed in the suit.

3. The respondent herein filed O.S.No.208 of 2013 for recovery of money. As the defendant did not enter appearance, he was set *ex parte* by the Court below and an *ex parte* decree was passed in the suit on 13.02.2017. The defendant filed I.A.No.5766 of 2017 under Order IX Rule 13 and Section 151 C.P.C. for setting aside the *ex parte* decree. He also filed I.A.No.5765 of 2017 under Section 5 of the Limitation Act, 1963, for condoning the delay of 267 days in filing the application seeking to set aside the *ex parte* decree and I.A.No.5767 of 2017 for staying all further proceedings in E.P.No.567 of 2017 in O.S.No.208 of 2013. By separate orders passed by the Court below on 27.03.2018, it has dismissed all these I.As.

4. In support of his plea, the defendant averred that as he did not receive the suit summons, he could not enter appearance and contest the suit. However, the Court below, in the detailed order passed by it on 27.03.2018 in I.A.No.5765 of 2017, has rendered a finding that the suit summons sent to the defendant were not claimed by him and that thereafter, publication of notice in a local newspaper was made and despite the said publication, the defendant has not entered appearance and contested the suit. The Court below has also taken note of the averments made by the plaintiff that in a criminal complaint filed against the defendant, non bailable warrants (NBWs) were issued and they have been pending execution for nearly three years; that the whereabouts of the defendant were not known; that recently, the plaintiff came to know that the defendant and his wife cheated several persons and that the defendant is having 16 sim cards through which he was evading arrest by the Police and frequently changing his residence. Having taken into consideration the respective pleadings of the parties and considering the fact that the defendant has not claimed the suit summons, the Court below has dismissed all the I.As.

5. When these cases came up before this Court on 19.09.2018, in order to give a fair opportunity to the defendant to contest the suit, we have suggested that to show his *bona fides*, the defendant may deposit 50% of the E.P. amount. At the request of the learned counsel for the appellant/petitioner/defendant, we have adjourned the cases for instructions from the defendant in this regard. Today, at the hearing, the learned counsel for the appellant/petitioner/defendant has stated that his client is not in a position to deposit the amount as suggested by this Court.

6. Having regard to the fact that the appellant/petitioner/defendant has not claimed the suit summons and has also not responded to the paper publication of notice, we are of the opinion that he has been trying to evade the process of law and the Court, evidently, with a view to defraud his creditors, including the respondent. Even the fair opportunity given to him by this Court has not been availed of by the appellant/petitioner/defendant. Having regard to these facts and circumstances of the case, we find no reasons to interfere with the orders of the Court below.

7. C.M.A.No.854 of 2018 and C.R.P.Nos.4695 and 4699 of 2018 are, accordingly, dismissed.

8. As a sequel to dismissal of these cases, I.A.No.2 of 2018 in C.R.P.No.4699 of 2018, filed for interim relief stands dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

26th September, 2018
GHN

