

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.M.A.No.712 of 2016

JUDGMENT:

This appeal is filed under Order 43 Rule 1(t) CPC assailing the order dated 21.06.2016 passed in I.A.No.291 of 2016 in A.S.No.295 of 2012 on the file of XIII Additional Chief Judge Court(FTC), City Civil Court, Hyderabad.

2. Heard the learned counsel appearing for both the parties and perused the material available 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 A.S.No.295 of 2012 on the file of XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad, challenging the judgment and decree dated 19.07.2012 in O.S.No.4343 of 2008 on the file of VI Junior Civil Judge Court, City Civil Court, Hyderabad. For one reason or other, the petitioners' counsel did not advance arguments before the first appellate Court on 30.03.2016. The first appellate Court dismissed the appeal. On the same day, the petitioners filed I.A.No.291 of 2016 for restoration of the appeal. The first appellate Court dismissed the petition without assigning any reasons much less cogent and valid reasons. If the order of the first appellate Court is allowed to stand, certainly it would amount to miscarriage of justice. If the appeal

is not allowed, it may not be possible for the appellants to substantiate their case. Viewed from any angle, this court is of a considered view that it is a fit case to set aside the impugned order.

5. In the result, the Civil Miscellaneous Appeal is allowed setting aside the orders dated 21.06.2016 passed in I.A.No.291 of 2016. Consequently, I.A.No.291 of 2016 in A.S.No.295 of 2012 on the file of XIII Additional Chief Judge Court, City Civil Court, Hyderabad, is allowed. The learned XIII Additional Chief Judge Court, City Civil Court, Hyderabad is hereby directed to dispose of A.S.No.295 of 2012 within a period of three (3) months from the date of receipt of copy of this order. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Dt:24.12.2018
Rns

T.SUNIL CHOWDARY, J