

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO. 5751 OF 2018

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the order in I.A.No.1172 of 2018 in O.S.No.1289 of 2017 dated 25.09.2018 passed by the Judge, Additional Family Court at Hyderabad.

I.A.No.1172 of 2018 was filed under Order IX Rule 7 C.P.C to set-aside the exparte order dated 21.05.2018 passed against this petitioner. It is alleged that, the petitioner appeared before the Court below in O.P.No.1289 of 2017 on all the dates of adjournment including 05.06.2018 and 31.07.2018. Thereafter, she was set exparte. The cause for her absence in O.P.No.1289 of 2017 on 16.07.2018, 28.08.2018 and 11.09.2018 and 25.09.2018 was that, the petitioner was suffering from chronic tooth ache. But, the Court below did not accept this reason, in view of the strong opposition and dismissed the petition.

During hearing, Sri P. Ravi Kiran Rao, learned counsel for the petitioner reiterated the contentions and requested to afford an opportunity to the petitioner to contest the matter, since it pertains to custody of a child.

However, Sri K.G. Krishna Murthy learned Senior Counsel appearing for the respondent on behalf of Sri V. Ramchander Goud, pointed out that this petitioner did not comply with the directions issued by this Court earlier i.e. atleast permitting the father for visiting rights of the minor ward and requested to issue

necessary direction to comply with the interim order passed by this Court and pass appropriate orders, subject to certain conditions.

It appears from the record that the petitioner was absent on three dates of adjournment successively. Then, the Court below passed an order, setting her exparte. However, the dispute is with regard to visiting rights of both wife and husband, who claims custody of minor ward. Therefore, accepting the explanation submitted by the petitioner for non-appearance as sufficient cause, the order passed by the Trial Court is hereby set-aside, while allowing this petition with a direction to dispose of O.P.No.1289 of 2017, as expeditiously as possible, in any event not later than four months from today.

With the above direction, civil revision petition is allowed.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.



JUSTICE M. SATYANARAYANA MURTHY

Date: 31.10.2018

Note: copy by 05.11.18

b/o
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