

**THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN**

**CIVIL REVISION PETITION NO.6270 OF 2018**

**ORDER:**

The petitioners are aggrieved by the order dated 11.10.2018, in I.A.No.154 of 2018 in I.A.No.07 of 2018, in O.S.No.1946 of 2015, passed by the III Junior Civil Judge, City Civil Court, Hyderabad, whereby, the learned Judge has dismissed an application filed by the petitioner after filing counter to I.A. filed by the respondent. Hence, the present revision petition.

Brief facts of the case are that the respondent had filed I.A.No.7 of 2018 in O.S.No.1946 of 2015 for fixing of fair rents i.e. mesne profits at Rs.25,000/- per month from 06.06.2015 along with interest @ 18% per annum till the date of realisation.

The learned counsel for the petitioner had sought time to file counter to the said I.A. Although the case was posted for filing counter, on 31.08.2018, the petitioner's counsel, by mistake, had noted the date as 03.09.2018 instead of 31.08.2018. Thus, the learned counsel did not attend the case on 31.08.2018 as the counsel was under a *bona fide* impression that the next date for filing the counter was 03.09.2018. Moreover, according to the petitioner, on 03.09.2018, when the counsel went to the Court for filing the counter, she was informed that the date of filing the counter was already over. Hence, the petitioner filed an application for submitting the counter. The said application has been dismissed. Hence, this revision petition before this Court.

The learned counsel for the petitioner has pleaded that the petitioner does have a right to file the counter in order to challenge the mesne profits being asked by the respondent. However, the

said right has been denied to the petitioner by the learned Court below. Therefore, this Court should interfere and set aside the impugned order dated 11.10.2018.

On the other hand, the learned counsel for the respondent has vehemently opposed the position taken by the learned counsel for the respondent. According to him, since 03.09.2018 was Janmastami, a holiday, and the Courts were closed, there was no possibility of the learned counsel for the petitioner appearing before the Court. Therefore, a wrong explanation was given by the petitioner before the Court. Therefore, the learned counsel has supported the impugned order.

Heard learned counsel for the parties and perused the impugned order.

According to settled principles of law, "justice should not only be done, but must appear to be done". Therefore, an opportunity should be given to both the sides to file their pleadings before the Court.

Admittedly, the case was listed on 31.08.2018. However, as per the learned counsel for the petitioner, he had a *bona fide* impression that the case was posted to 03.09.2018. The learned counsel for the petitioner did not file the counter before the Court on the correct date. But for the mistake of the counsel, the litigant cannot be made to suffer.

Therefore, this Court is of the opinion, that the order dated 11.10.2018 should be set aside. Accordingly, the same is, hereby, set aside. The learned III Junior Civil Judge, City Civil Court, Hyderabad is directed to accept the counter to I.A.No.7 of 2018 provided that the petitioner deposits costs of Rs.1,000/- (Rupees

one thousand only). The said costs shall be paid by the petitioner to the respondent before the Court below.

With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**(RAGHVENDRA SINGH CHAUHAN, J)**

05.12.2018  
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