

THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU**CIVIL REVISION PETITION No. 6752 of 2018****ORDER**

This Civil Revision Petition is filed questioning the order dated 10.10.2018 in I.A.No.242 of 2018 in O.S.No.7 of 2016 on the file of the VII Additional District Judge, Bodhan. I.A.No.242 of 2018 is an application filed under order 9 Rule 7 r/w section 151 CPC, praying to set aside the ex parte order, dated 20.01.2017 in O.S.No.7 of 2016.

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

3. A perusal of the record reveals that notice, sent to the present Revision Petitioner in O.S. No. 7 of 2016, was returned by the processor on the ground that the petitioner was residing at Arabia. Similarly, postal cover sent by the Court was also returned with the endorsement that the addressee went abroad, without intimation. In these circumstances, the application for substitute service was filed. The said application was allowed and a paper publication was made in the local Newspaper in "Nava Telangana", directing the appearance of the petitioner on 06.01.2017. Therefore, the contention of the learned counsel for the petitioner is that despite of the clear evidence available in the Court below that the Revision Petitioner is not residing in India, the application for substitute services is allowed and publication is made in local Newspaper that has no large circulation. In addition, the learned counsel for the petitioner also points out that another suit O.S.No. 2 of 2015 is filed earlier between the same parties wherein it is shown clearly that the petitioner is not living in India and that he is represented by his wife, who is G.P.A. holder and her address furnished therein. The plaintiff in the present suit O.S. No. 7 of 2016 is the defendant of the suit No.2 of 2015. She has

appeared in the suit, received the copies of the written statement etc. filed by the petitioner. Therefore, the learned counsel for the petitioner contents that the entire process followed by the Court below is incorrect and they should be given an opportunity to contest the case.

4. In reply thereto, the learned counsel for the respondents submits that the address given in the pliant is not correct. Publication cannot be made wherever the Revision Petitioner resides. He submits that It is the duty of the petitioner to furnish correct address on which notice should be forwarded . In addition, counsel also submits that the present respondent Mrs. Baneeya Bee is afflicted with paralysis and that is cited in CRP No. 4710 of 2017. Taking notice of the fact that she is suffering from paralysis, this Court by order dated 06.10.2017 directed that the Suit OS No. 7 of 2016 should be disposed of in a time bound manner, preferably within a period of one year from 6th October, 2017. Learned Counsel therefore submits that if the application is allowed the order passed by this Court earlier would be set at not.

5. After considering both the submissions of the petitioner and respondents, this Court is of the opinion that there is a *prima facie* strength in what is stated by the petitioner herein, despite the notice being returned on the ground that he was residing in Saudi Arabia, publication is made in the local Newspaper and the petitioner was said ex parte. Therefore, this Court is of the opinion that revision petitioner should be given an opportunity to participate in the trial. Counsel for the Revision Petitioner agreed that he and his client would cooperate in the early disposal of the case and would not seek any adjournments. Written statement is already filed according to the learned counsel for the respondents.

6. In these circumstances, this Court is of the opinion that keeping in view the order passed in C.R.P. No. 4710 of 2017 and also the extension

granted therein, the Suit should be disposed of within a period of three months. The petitioner should cooperate in the disposal of the case which should be completed in all respects within three months from the date of this order. No further extension of time will be granted. It is brought to the notice of this Court that the plaintiff in the suit is suffering from paralysis attack. Therefore, the Lower Court is directed not to grant adjournments liberally.

7. With these directions the Civil Revision Petition is allowed, directing the Lower Court to receive the written statement and allow the Revision Petitioner to participate in the Trial. The Lower Court should dispose of the suit within the said period of three months as mentioned above.

Miscellaneous petitions pending, if any, shall stand closed.



JUSTICE D.V.S.S.SOMAYAJULU

Date: 27.11.2018.

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Dated: 27.11.2018.

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