

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.6667 of 2017

ORDER:

Plaintiff in O.S.No.6 of 2008, on the file of the Court of the First Additional District Judge, Kurnool is the petitioner in the present revision filed under Article 227 of the Constitution of India. In the present revision, challenge is to the order dated 07.09.2017 passed by the said Court in I.A.No.275 of 2017.

2. Heard the learned counsel for the petitioner Sri JMV. Prasad and Sri M.Rammohan for the respondents apart from perusing the material available before the Court.

3. The petitioner herein instituted O.S.No.6 of 2008 for recovery of amount on the foot of Agreement of Sale. In the said Suit, the defendants/respondents herein filed I.A.No.275 of 2017 under the provisions of Order 8 Rule 1A of the Code of Civil Procedure, praying the Court below to receive the petition schedule mentioned documents as evidence after condoning the delay in filing the same. Resisting the said application, a counter affidavit deposited by the first respondent was filed. The learned First Additional District Judge, Kurnool, by way of an order dated 07.09.2017, allowed the said application. This revision calls in question the said order passed by the learned First Additional District Judge.

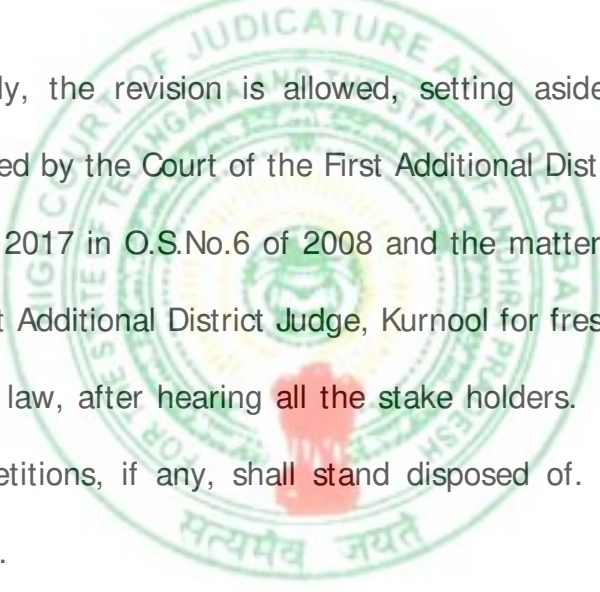
4. It is contended by the learned counsel for the petitioner that without assigning any reasons, the learned Judge passed the order under challenge though a counter affidavit opposing the application was filed. On the other hand, it is submitted by the learned counsel for the respondents that the learned Judge allowed the application only subject to proof and relevancy of

documents and therefore the said order does not warrant any interference of this Court under Article 227 of the Constitution of India.

5. Order 8 Rule 1 (A) of the Code of Civil Procedure imposes obligation on the defendant to file documents along with the written statement. Sub-Rule 1 (A) and (3) of Rule 8 is a departure from the said Rule which enables the defendants to file the documents at a later point of time with the leave of the Court. In the instant case, though the petitioner herein filed a counter, opposing the application, the learned Judge allowed the application without assigning any reasons whatsoever. In the considered opinion of this Court, the said ground is sufficient for setting aside the impugned order.

6. Accordingly, the revision is allowed, setting aside the order dated 07.09.2017 passed by the Court of the First Additional District Judge, Kurnool in I.A.No.275 of 2017 in O.S.No.6 of 2008 and the matter is remitted to the Court of the First Additional District Judge, Kurnool for fresh consideration, in accordance with law, after hearing all the stake holders. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date:23.01.2018
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A.V.SESHA SAI, J

THE HON'BLE SRI JUSTICE A.V.SESHA SAI



23.01.2018

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