

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Dr Justice Shameem Akther

F.C.A. No. 59 of 2019

Date: 20-06-2019

Between:

Gourineni Venkat Rao

...Appellant

and

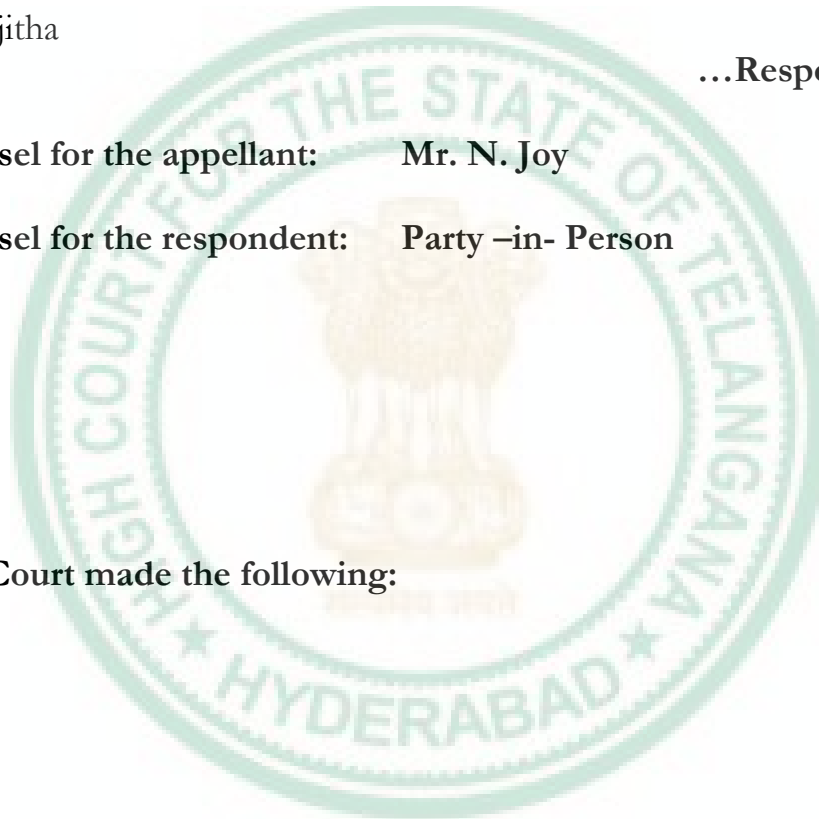
G. Rajitha

...Respondent

Counsel for the appellant: Mr. N. Joy

Counsel for the respondent: Party –in- Person

The Court made the following:



Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

Mr. Gourineni Venkat Rao, the petitioner, has challenged the legality of the order dated 10-07-2018, passed by the Additional Family Court, City Civil Court, Hyderabad, in IA.No.92 of 2017 in OP.No.1548 of 2011, whereby the learned Family Court has dismissed the petitioner's application for restoring the case to its original number.

The brief facts of the case are that the petitioner had filed OP.No.1548 of 2011 for seeking divorce from the respondent, wife. However, by order dated 22-08-2017, the learned Family Court had dismissed the said petition for non-prosecution. Subsequently, the petitioner filed an application for restoration of the said petition, and for setting aside the dismissal order dated 22-08-2017. However, by the impugned order dated 10-07-2018, the learned Family Court has dismissed the petitioner's application. Hence, this petition before this Court.

Mr. N. Joy, the learned counsel for the petitioner, has vehemently contended that although the petitioner had given his medical record to his counsel, his counsel has never

submitted the same before the learned Family Court. Therefore, he has even filed the medical documents for the perusal of this Court.

Secondly, inadvertently, his counsel had mentioned in the application that the petitioner had slipped on the stairs in the second week of September, 2017. However, the accident had occurred in July, 2017. Due to the fracture of the leg, the petitioner was unable to attend the proceedings before the learned Family Court. Despite the ample evidence produced by the petitioner before this Court, the learned Family Court is not justified in dismissing his application for restoring the case. Therefore, the learned counsel prays that the original OP be restored, and the impugned order be set aside by this Court.

On the other hand, the respondent-in-person submits that the petitioner is weaving a fanciful tale. According to the impugned order itself, the petitioner had attended the Court on 26-04-2017, 03-05-2017, 31-05-2017, 03-06-2017, and on 10-06-2017. It is only thereafter that he had stopped attending the Court.

Secondly, the petitioner has failed to produce any medical certificates issued by a competent doctor clearly stating that he has suffered a fracture of his leg in July, 2017, due to which, he required continuous bed rest for a period of two months.

Thirdly, even after a chance was given to the petitioner by order dated 08-10-2018, to have his testimony recorded, he continued to be absent for two months without any reason. Thus, according to the respondent, the filing of the divorce petition is nothing but a surreptitious means to harass the respondent. For, according to her, she has been attending every single date of hearing in the Court. Therefore, according to her, the learned Family Court is justified in dismissing the application filed by the petitioner.

Heard the learned counsel for the petitioner, and the respondent-in-person. Perused the record.

It is, indeed, trite to state that a litigant has to be vigilant in order to protect his or her rights. A litigant, who sleeps over his rights, cannot and should not expect the Court to rush to his rescue. Moreover, a litigant is supposed to come with clean hands to the Court. However, in the

present case, neither of these two conditions have been satisfied by the petitioner. According to the learned Family Court, the petitioner has abstained from appearing before the learned Family Court on large number of dates. The case has been adjourned on all those dates only due to the absence of the petitioner.

Although the petitioner claims before this Court that he had suffered fracture in July, 2017, no medical certificate to that effect has been filed by him before this Court. Merely, the x-ray dated 22-07-2012, has been filed. However, the genuineness and authenticity of the said x-ray is doubtful as there is no evidence to prove the same. Of course, the petitioner has also filed certain prescriptions. However, prescriptions cannot replace the necessity of having a medical certificate duly issued by a competent doctor. Therefore, even these prescriptions cannot be relied upon by this Court.

Even if it were to be believed by this Court that the petitioner had, indeed, met with an accident in July, 2017, or September, 2017, there is no justifiable reason as to why the petitioner could not instruct his Counsel to appear on his

behalf before the concerned Court. Moreover, even when a chance was given to the petitioner for recording of his testimony, he did not appear before the Court for two long months.

It is highly unfair on the part of the litigants to hope and expect that a Court of law will be endlessly waiting for their appearance for concluding the proceedings. In case the litigant does not appear within a reasonable time, in order to establish his case, the Courts are not expected to endlessly wait for the litigants to appear. For, cases cannot be adjourned at the drop of the hat, and at the convenience of the litigants. Burdened as the Courts are with a large docket, the time of the Courts is highly valuable. But, those, who ignore their own rights, cannot be permitted to waste the valuable time of the Court.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order dated 10-07-2018. Since the present appeal is devoid of merit, it is hereby dismissed.

As a sequel, Miscellaneous Petitions, pending if any,
stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(Dr. Shameem Akther, J)

Dt: 20th June, 2019
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