

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.664 of 2019

ORDER :

This Revision is filed challenging the docket order dt.13-12-2018 in I.A.No.1159 of 2015 in O.S.No.1438 of 2010 of the II Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar.

2. Petitioner herein is defendant in the suit.
3. The respondent/plaintiff filed the suit against petitioner for redemption of title of ownership by taking some amount from the respondent, for cancellation of sale-cum-G.P.A. dt.25-07-2007 and for costs.
4. When the matter was posted for trial and was posted on 02-12-2015 for filing chief-examination affidavit, the respondent did not file it and the suit was dismissed for default because counsel of respondent was also absent.
5. Within 30 days from the said event, respondent filed on 29-12-2015, I.A.No.1159 of 2015 stating that she was unwell and could not attend the office of the counsel engaged by her for preparation of chief-examination affidavit and because of non-filing of the same, the suit had been dismissed for default. She contended that one opportunity be given to her to substantiate her case.

6. Counter-affidavit was filed by petitioner opposing the same. It was denied that respondent was unwell or that her counsel had gone out of station and matter could not be ready on 02-12-2015. It was also pointed out that previous thereto certain opportunities had been given to the respondent to file her chief-examination affidavit but were not availed off by the respondent. The medical certificate produced by respondent was also doubted.

7. By order dt.13-12-2018, the Court below allowed the said application subject to payment of costs of Rs.500/- to the District Legal Services Authority, Ranga Reddy District and subject to the condition of the respondent filing her chief-examination affidavit and proceeding with trial without seeking for adjournment.

8. Assailing the same, this Revision is filed.

9. Learned counsel for petitioner contended that the plea of the respondent for her absence and of her counsel on 02-12-2015 is false and the contentions of counter-affidavit filed by petitioner opposing the restoration of the suit are not properly considered by the trial Court.

10. Admittedly, the application for restoration of suit was filed within 30 days from the date of dismissal of suit for default. The reason assigned by respondent was that she was unwell and her counsel was out of station and she filed medical certificate in support thereof. Therefore, the Court below rightly exercised its jurisdiction

to restore the suit subject to respondent paying costs of Rs.500/- to the District Legal Services Authority, Ranga Reddy District and filing chief-examination affidavit and proceeding with the trial of the suit without seeking any adjournment.

11. I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

12. Accordingly, the Civil Revision Petition fails and is dismissed at the admission stage. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-07-2019

Vsv