

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1731 OF 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner aggrieved by the order dated 08.07.2019 passed in I.A.No.611 of 2018 in H.M.O.P.No.104 of 2017 by the Senior Civil Judge at Suryapet, wherein the application filed by the revision petitioner to set aside the *ex parte* order dated 17.07.2018 was dismissed.

2. Heard the learned counsel for the revision petitioner, learned counsel for the respondent and perused the record.

3. Learned counsel for the revision petitioner-wife would contend that the revision petitioner was not informed the result of the proceedings in Tr.O.P.No.198 of 2018. She was waiting for the result of the said proceedings, her counsel did not inform the same. When she came to know about the dismissal of the Tr.O.P., she filed an application to set aside the *ex parte* order dated 17.07.2018 assigning sufficient cause. However, the Court below did not consider the same, which is erroneous and ultimately prayed to allow the petition.

4. On the other hand, learned counsel for the respondent-husband would contend that there is no justifiable cause to set aside the *ex parte* order dated 17.07.2018. The Court below justified in dismissing the application and ultimately prayed to sustain the order.

5. Now the point for determination is,

“Whether the *ex parte* order dated 17.07.2018 is liable to be set aside?”

6. Admittedly, the contention of the petitioner-wife is that her Advocate did not inform the disposal of the said Tr.O.P. Having come to know the same, immediately she filed the application on 03.10.2018 to set aside the *ex parte* order dated 17.07.2018 and allow her to file counter. There is no much gap in between the date of *ex parte* order and the application filed to set aside the same. It is evident from the record that the revision petitioner is diligently pursuing the subject O.P. The dispute between the parties is required to be determined on merits. In the given circumstances, the valuable right of the revision petitioner to put-forth her case cannot be denied. The Court below erred in not exercising the jurisdiction in favour of the revision petitioner. The Court below ought to have allowed the application. If the contentions of the revision petitioner are not allowed, substantial injustice would be caused to her.

7. Under these circumstances, the impugned order dated 08.07.2019 in I.A.No.611 of 2018 in H.M.O.P.No.104 of 2017 on the file of the Senior Civil Judge at Suryapet is set aside and I.A.No.611 of 2018 is allowed as prayed for.

8. In the result, the Civil Revision Petition is allowed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 11.09.2019
ssp