

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2120 OF 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioner/defendant No.5 aggrieved by the docket order, dated 26.08.2019, passed in O.S.No.751 of 2013 by the II Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, wherein the Court below has dismissed the Suit as not pressed against the revision petitioner/defendant No.5 and defendant No.6.

2. Heard the learned counsel for both sides and perused the record.

3. Learned counsel for the revision petitioner/defendant No.5 would submit that on an application filed by respondent No.1/plaintiff, the revision petitioner/defendant No.5 and defendant No.6 were impleaded in the subject Suit, which was filed for specific performance of contract. Thereafter, basing on the Memo, dated 26.08.2019, filed by respondent No.1/plaintiff, the Court below, vide impugned order, dismissed the Suit as not pressed against the revision petitioner/defendant No.5 and defendant No.6. No notice was given to the revision petitioner/defendant No.5 with regard to filing of the subject Memo, dated 26.08.2019. Without an opportunity being given to the revision petitioner/defendant No.5, the Court below ought

not have passed the impugned order and ultimately, prayed to set aside the same by allowing the Civil Revision Petition.

4. On the other hand, learned counsel for respondent No.1/plaintiff would contend that no notice is necessary to be given to the revision petitioner/defendant No.5 and defendant No.6. The Court below is justified in passing the impugned order and ultimately, prayed to dismiss the Civil Revision Petition.

5. As seen from the material placed on record, no notice was given to the revision petitioner/defendant No.5 and defendant No.6 with regard to filing of the Memo, dated 26.08.2019. A perusal of the impugned order discloses that the same was passed in the presence of respondent No.1/plaintiff only. No submissions are made on behalf of the revision petitioner/defendant No.5 and defendant No.6. When the subject Memo, dated 26.08.2019, is filed, the Court below ought to have issued notice to the revision petitioner/defendant No.5 and defendant No.6 before passing any order basing on the said Memo. Since no notice is issued to the revision petitioner/defendant No.5 with regard to filing of the subject Memo, dated 26.08.2019, as contended by the learned counsel for the revision petitioner/defendant No.5, the impugned docket order, dated 26.08.2019, is liable to be set aside.

6. Accordingly, the Civil Revision Petition is allowed and the impugned docket order, dated 26.08.2019, passed in O.S.No.751 of 2013 by the II Additional Senior Civil Judge, Ranga Reddy

District at L.B. Nagar, is set aside. The Suit is restored to its file against the revision petitioner/defendant No.5 and defendant No.6. The Court below is directed to pass appropriate orders on the Memo, dated 26.08.2019, filed by respondent No.1/plaintiff after giving due notice to the revision petitioner/defendant No.5 and defendant No.6.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

December 11, 2019.
MD

Dr. SHAMEEM AKTHER, J

