

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.R.P.No.2544 OF 2019

ORDER:

This civil revision petition under Article 227 of the Constitution of India arises out of the order dated 04.09.2019 passed by the learned III Senior Civil Judge, City Civil Court, at Secunderabad, in I.A.No.393 of 2019 in O.S.No.45 of 2016.

2. The petitioners herein are the defendants in the said suit. They filed the subject I.A. under Order IX Rule 4 and 9 read with Section 151 C.P.C. to set aside the forfeiture order, dated 17.12.2018, passed in the suit. By the said order, the trial Court, having recorded that there was no representation on behalf of the petitioners-defendants nor did they pay the costs of Rs.200/- imposed on 03.12.2018 while adjourning the case to 17.12.2018, forfeited the evidence of the petitioners-defendants.

3. A perusal of the affidavit filed in support of the I.A. before the Court below, shows that on 17.12.2018, as per the instructions of his superior official, petitioner No.4-defendant No.4 went on emergency service and that the same could not be informed to the learned counsel appearing on their behalf and the same is neither willful nor wanton.

4. Learned counsel for the petitioners-defendants would submit that the counsel on record expired in February, 2019 after prolonged illness and the said fact was known to the petitioners-defendants only in March, 2019. He would further submit that due to illness, the learned counsel did not appear, and due to emergency duty of petitioner No.4-defendant No.4, he could not take immediate steps. Learned counsel therefore prays

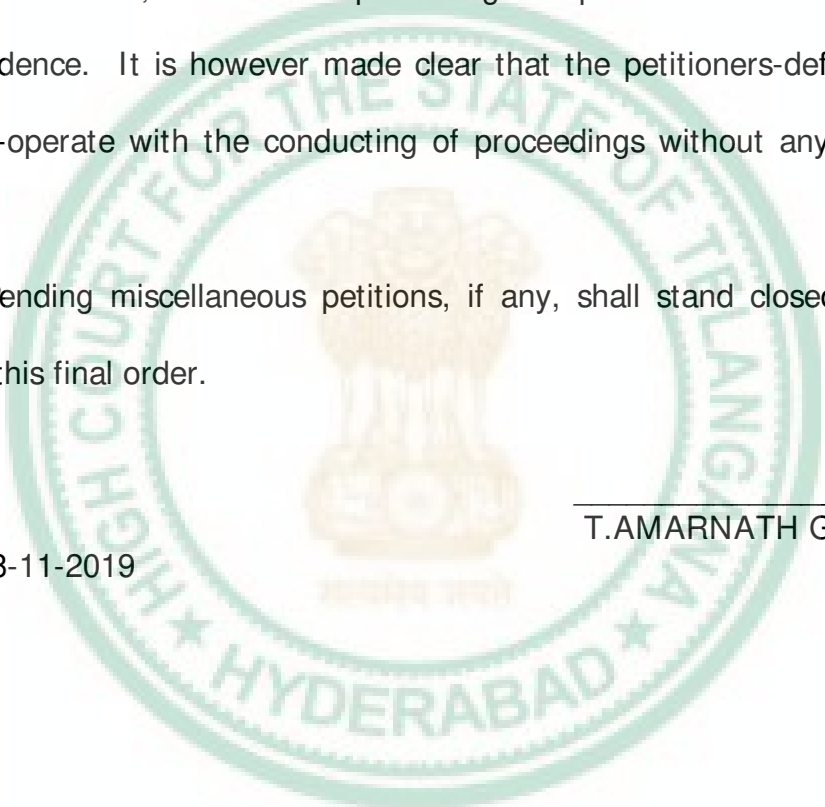
to allow the C.R.P. by permitting the petitioners-defendants to lead evidence, otherwise they will be put to irreparable loss and hardship.

5. Having regard to the facts and circumstances of the case, this Court is of the opinion that to meet the ends of justice, the evidence cannot be shut and an opportunity needs to be given to the petitioners and hence, the impugned order is liable to be set aside.

6. Accordingly, the civil revision petition is allowed and the order, dated 17.12.2018, is set aside permitting the petitioners-defendants to lead evidence. It is however made clear that the petitioners-defendants shall co-operate with the conducting of proceedings without any further delay.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

Date: 18-11-2019
GJ

T.AMARNATH GOUD, J