

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2853 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.2, aggrieved by the docket order, dated 24.09.2019, passed in I.A.No.701 of 2019 in O.S.No.01 of 2010 by the Senior Civil Judge, Jangaon, wherein the subject application filed under Order IX Rule 7 of the Code of Civil Procedure, 1908, seeking to set aside the order, dated 22.02.2010, wherein the petitioner/defendant No.2 was set *ex parte* in the subject suit, was dismissed with costs.

2. Heard the learned counsel for the revision petitioner/defendant No.2 and perused the record.

3. Learned counsel for the revision petitioner/defendant No.2 would submit that no prejudice would be caused to the parties to the proceedings, if the order, dated 24.02.2010, (wrongly mentioned as 22.01.2010 in the subject application), in setting the petitioner/defendant No.2 as *ex parte* in the subject suit is set aside. It is stated that though several reasons assigned in the affidavit filed in support of the subject application, the Court below erroneously passed the impugned order and ultimately, prayed to set aside the impugned order and allow I.A.No.701 of 2019 as prayed for.

4. The subject suit is filed for partition and separate possession. As seen from the material placed on record, the

petitioner/defendant No.2 entered his appearance, but did not choose to contest the suit. The petitioner/defendant No.2 simply stated that he was under the impression that the subject suit will be compromised in between the parties to the litigation. He did not materialize the same and that led to filing of the subject Interlocutory Application. The reason assigned by the petitioner is unsustainable. The subject suit is at fag end of the trial. The subject Interlocutory application is filed with an enormous delay without there being any justifiable cause. The Court below assigned number of reasons and declined to allow the subject application. There is nothing to take different view. There is no perversity in the impugned order. The Civil Revision Petition is devoid of merits and is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

3rd December, 2019

YVL

Dr. SHAMEEM AKTHER, J

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Date:03.12.2019

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