

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION NO: 450 OF 2020

(Petition Under Article 227 of the Constitution of India against the orders dated 10.02.2020 made in I.A.No.198 of 2019 in O.S.No.46 of 2013 on the file of the Court of the Judge, Family Court-Cum-VI Additional District & Sessions Judge, Nalgonda, Nalgonda District)

Between:

Smt.K.Sai Sri, W/o Sri Kandi Arvind Kumar, Hindu, aged 36 yrs, Occ House wife, R/o H.No. 1-8-32/27, Babu Bagh Colony, P.G.Road, Secunderabad - 500 003.

...APPELLANT/PETITIONER

AND

Ch.Murali, S/o Sri Ramulu, Hindu, Aged 50 yrs., Occ Business, R/o Kurmed village, Chintapally Mandal, Nalgonda District

...RESPONDENT/DEFENDANT

I.A.NO. 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S No. 46 of 2013 on the file of the Judge, Family Court-cum-VI Additional District & Sessions Court, Nalgonda during the pendency of the above CRP.

Counsel for the Petitioner : SRI. D.MADHAVA RAO

Counsel for the Respondent : SRI B.SHIVA KUMAR

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.450 OF 2020

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff aggrieved by the docket order dated 10.02.2020 passed in I.A.No.198 of 2019 in O.S.No.46 of 2013 by the Judge, Family Court-cum-VI Additional District Judge, Nalgonda, wherein the subject Interlocutory Application filed by the respondent/defendant, under Section 5 of Limitation Act, seeking to condone the delay of 773 days in filing the petition to set aside the *ex parte* decree dated 02.12.2016 passed against him, was allowed.

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

3. Learned counsel for the revision petitioner/plaintiff attacked the impugned order solely on the ground that it is a cryptic order and no reasons are assigned by the Court below in allowing the subject Interlocutory Application. Moreover, there is a huge delay of 773 days in filing the petition to set aside the *ex parte* decree dated 02.12.2016 passed against the respondent/defendant. The Court below ought not have allowed the subject Interlocutory Application and ultimately prayed to set aside the impugned order and allow the civil revision petition as prayed for.

4. On the other hand, learned counsel for the respondent/defendant would contend that the impugned order is a reasoned order and there are no grounds to interfere with the said order and ultimately prayed to dismiss the civil revision petition.

5. In view of the submissions made by both sides, the point for determination is:

"Whether the impugned docket order dated 10.02.2020 passed in I.A.No.198 of 2019 in O.S.No.46 of 2013 by the Judge, Family Court-cum-VI Additional District Judge, Nalgonda, is liable to be set aside?"

6. **POINT:** As seen from the material placed on record, the respondent/defendant filed subject I.A.No.198 of 2019 in O.S.No.46 of 2013 on the file of the Judge, Family Court-cum-VI Additional District Judge, Nalgonda, to condone the delay of 773 days in filing the petition to set aside the *ex parte* decree dated 02.12.2016 passed against him in the said suit. The Court below was pleased to allow the said I.A.No.198 of 2019 vide impugned docket order dated 10.02.2020, which reads as follows:

"For the reasons stated in the affidavit, this petition is allowed subject to payment of costs of Rs.1,000/- to the respondent by 12.02.2020, failing which the petition shall stand dismissed."

7. A perusal of the above impugned order reveals that it was not passed on merits and it is a cryptic order. Therefore, the impugned order is unsustainable and as such it is liable to set aside.

8. Under these circumstances, the impugned docket order dated 10.02.2020 passed in I.A.No.198 of 2019 in O.S.No.46 of 2013 by the Judge, Family Court-cum-VI Additional District Judge, Nalgonda, is set aside and I.A.No.198 of 2019 is restored to its file for fresh disposal, in accordance with law. The Court below is directed to dispose of

I.A.No.198 of 2019 in O.S.No.46 of 2013, as expeditiously as possible, preferably, within a period of two(2) months from today. Even if the Court proceedings are conducted virtually, the Court below is supposed to dispose of the said I.A.No.198 of 2019 within the stipulated time.

9. With the above direction, the Civil Revision Petition is disposed of. No costs.

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

//TRUE COPY//

SD/-CH.VENKATESWARLU
ASSISTANT REGISTRAR


SECTION OFFICER

To

1. The Judge, Family Court-Cum-VI Additional District & Sessions Judge, Nalgonda, Nalgonda District
2. One CC to Sri D.Madhava Rao, Advocate (OPUC)
3. One CC to Sri B.Shiva Kumar, Advocate (OPUC)
4. Two CD Copies

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HIGH COURT

Dr SA,J

DATED 03.09.2020



ORDER

C.R.P.No.450 of 2020

DISPOSING OF THE C.R.P
WITHOUT COSTS.

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HMA
11/9/2020