

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.R.P.No.2330 OF 2019

ORDER:

1. This civil revision petition is directed against the order dated 05.07.2019 in I.A.No.607 of 2019 in O.S.No.5 of 2016 passed by the learned Principal Junior Civil Judge, Medchal, Ranga Reddy District, whereby the said application filed by the petitioner-defendant No.3 under Order IX Rule 7 read with Section 151 CPC seeking to set aside the *ex parte* order dated 07.09.2016, was dismissed.

2. Heard both sides. Perused the records.

3. The petitioner herein is defendant No.3 in the suit. The respondent No.1-plaintiff filed the suit against the respondents 2 and 3 and petitioner herein in the year 2016 seeking perpetual injunction. Summons were served on defendants 1 to 3 in the suit. Defendant Nos.1 and 2 filed their written statement. The defendant No.3 failed to file the written statement despite time being granted to her. By order dated 07.09.2016, the defendant No.3 was set *ex parte*. The defendant No.3 filed I.A.No.607 of 2019 seeking to set aside the *ex parte* order dated 07.09.2016. By the impugned order dated 05.07.2019, the learned Principal Junior Civil Judge dismissed the said application holding that the petitioner has filed the application seeking to set aside the *ex parte* order dated 07.09.2016 after a lapse of nearly three years on 26.03.2019.

4. Learned counsel for the petitioner contends that the order passed by the court below is contrary to law and the court below

ought to have allowed the application. He further contends that for the failure of learned counsel for the defendant No.3 to file written statement, the party may not be put to sufferance. He, therefore, prays for setting aside *ex parte* order dated 07.09.2016.

5. Be that as it may, since the suit is coming up for framing of issues and with a view to affording one more opportunity to the defendant No.3 to file the written statement in order to defend her case, the revision is allowed setting aside the *ex parte* order dated 07.09.2016 passed by the court below. There shall be no order as to costs.

6. Miscellaneous petitions, if any pending, shall stand closed.

T. AMARNATH GOUD, J

Date: 30.09.2021

Lrkm

