

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

**FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION NO: 3783 OF 2023

Petition filed under Article 227 of the Constitution of India, aggrieved by the docket order dated 06.10.2023 passed in O.S.No. 260 of 2017 dismissing the I.A.No. 761 of 2023 on the file of the XVIII Additional Senior Civil Judge, City Civil Court at Hyderabad.

Between:

Mr. Md. Khalid, S/o. Md. Zakir, aged about 33 years, R/o. H.No. 18-12-418/A/254, H.B. Nagar, Chandrayangutta, Hyderabad, T.S.

...PETITIONER

AND

Mr. Mohammed Khaja Aijaz Ali, S/o. Mohammed Yousuf Ali, age 59 years, Occ Retd., R/o. H. No. 20-4-501/1/3/C, Anand Mahal, Himmatpura, Qilwath, Charminar, Hyderabad, T.S.

...RESPONDENT

I.A NO: 1 OF 2023

Petition under Section 151 of 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. 260 of 2017, on the file of the Hon'ble XVIII Additional Senior Civil Judge, City Civil Court at Hyderabad.

Counsel for the Petitioner : M/S. ALI FARAZ FAROOQUI

Counsel for the Respondent : None appeared

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION No.3783 OF 2023

ORDER:

The present Civil Revision Petition is filed challenging the docket order dated 06.10.2023 in I.A.No.761 of 2023 in O.S.No.260 of 2017 passed by the Court of the XVIII Additional Senior Civil Judge, City Civil Court at Hyderabad (for short, Court below).

2. The petitioner herein is the defendant and the respondent herein is the plaintiff before the Court below. For the sake of convenience, the parties hereinafter shall be referred to as they are arrayed before the Court below.

3. The plaintiff filed the said suit for recovery of money. In the said suit, the evidence of the plaintiff was closed on 15.09.2023. However, due to the absence of the defendant on 15.09.2023, the defence of the defendant was closed. Subsequently, the defendant moved I.A.No.761 of 2023 to reopen his evidence and the same was allowed by the Court below on 27.09.2023 imposing costs of Rs.1,000/- on the defendant payable to the District Legal Services Authority. The Court below has also put a further condition that the defendant

shall file examination-in-chief of D.W.1 by next date of hearing. It is the latter part of the order which has not been complied with by the defendant which resulted in forfeiting the right of the defendant to lead his evidence. It is for this reason, the instant petition has been filed.

4. Learned counsel appearing for the petitioner begs to submit that in the larger interest of justice, the present Civil Revision Petition may be allowed and an opportunity may be afforded to the petitioner/defendant to lead his evidence, else he would be rendered remedyless. Learned counsel for the petitioner submit that next date of hearing before the Court below is on 05.01.2024 and he undertakes that under any circumstances, there shall be no further default on the part of the petitioner/defendant before the Court below. He has also stated that in between, there has not been any substantial progress in the suit.

5. Considering the entirety of the facts and circumstances of the case and also taking note of the submissions made by the learned counsel for the petitioner, this Court is inclined to allow the Civil Revision Petition, setting aside the order dated 06.10.2023 in I.A.No.761 of 2023 in O.S.No.260 of 2017 passed by the Court of the XVIII Additional Senior Civil Judge, City Civil

Court at Hyderabad, subject to the petitioner paying costs of Rs.5,000/- to the District Legal Services Authority, City Civil Court at Hyderabad, positively by the next date of hearing i.e., on 05.01.2024. The petitioner/defendant shall remain present before the Court below on 05.01.2024, and in no circumstances, shall he seek adjournment on the said date. He shall in addition be filing examination-in-chief of D.W.1 and offer himself by remaining present for cross-examination to be done by the respondent/plaintiff. It is made clear that in the event if the petitioner/defendant fails to comply with the any of the conditions mentioned above, the present order would automatically loose its efficacy, and in such circumstances, the Court below would be free to proceed further and ensure that the suit is concluded in accordance with law at the earliest.

6. With the above directions, the Civil Revision Petition is allowed. There shall be no order as to costs. Consequently, miscellaneous applications, if any pending, shall stand closed.

**SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The XVIII Additional Senior Civil Judge, City Civil Court at Hyderabad. (with records, if any)
2. The Secretary, Districe Legal Services Authority, City Civil Court, at Hyderabad.
3. One CC to M/S. ALI FARAZ FAROOQUI, Advocate [OPUC]
4. Two CD Copies

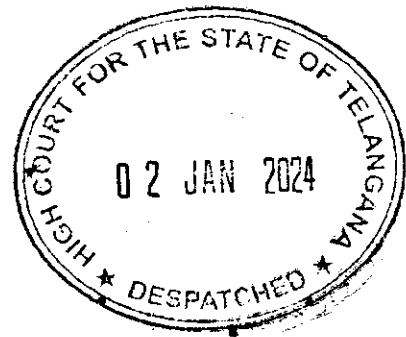
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NS

HIGH COURT

DATED:29/12/2023

ORDER

CRP.No.3783 of 2023



ALLOWING THE CIVIL REVISION PETITION

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21/1/24
HVS