

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

**FRIDAY, THE SIXTH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FOUR.**

**PRESENT**

**THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA**

**CIVIL MISCELLANEOUS APPEAL NO: 309 OF 2023**

Appeal under Order - 43 Rule -1 (c) CPC against the Order dated 06-01-2023 made in IA No. 261 of 2018 in OS No. 270 of 2009 the file of the Court of the III Additional District Judge, Ranga Reddy Hyderabad.

**Between:**

Ramesh Chandra Soni, S/o late Shri Satyanarayan Soni, aged 75 years. Occ. Business, R/o H .No. 15-2-148. Maharajgunj, Hyderabad.

**...Appellant**

**AND**

1. Mohammed Saleem (dead as per Lr 3 and 4), Ranga Reddy
2. Bharath Kedia, S/o not Know to the plaintiff, Age. Major. Occ. Business. Beside Railway gate. Shivarampalli. Meersagar. Hamlet of Mailardevpalli. Rajendranagar Mandal. R. R District.
3. Miss Humeera Fatima @ Humera Baby, D/o Abdul Saleem age 21 years, Occ: Student, R/o 6-6-60/A Katedhan Rajendranagar Mandal R. R Dist
4. Miss Nikkat Fatima, D/o Abdul Saleem, age 21 years, Occ: Student, R/o 6-6-60/A Katedhan Rajendranagar Mandal R. R Dist.

**...Respondents/Defendants**

**IA NO: 1 OF 2024**

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 suspend the impugned orders dated 6 January 2023 passed in IA No. 261 of 2018 in OS No. 270 of 2009 on the file of the learned III Additional District Judge, Ranga Reddy District, LB Nagar pending disposal of the present Revision in the interest of justice.

**Counsel for the Appellant :SRI AADESH VARMA**

**Counsel for the Respondent Nos.3 & 4 : M/S. CHANDRASEN LAW OFFICES**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

**CIVIL MISCELLANEOUS APPEAL No.309 of 2023**

**ORDER:**

Petitioner is the plaintiff in O.S.No.270 of 2009 on the file of learned III Additional District Judge, Ranga Reddy District, at Hyderabad. The suit was filed for declaration of title and recovery of possession.

2. It is stated that on 07.03.2018, the advocate on record for the petitioner had rushed to Nagpur to attend a personal matter at High Court of Bombay and therefore could not be present in the afternoon session before the trial Court for recording the Examination-in-Chief. It is further stated that the suit was specifically posted for 07.03.2018 for non payment of costs of sum of Rs.100/- and that the plaintiff was present in-person in the morning session and paid the costs vide S.R.No.1484 of 2018. It is also stated that the plaintiff is about 70 years old, and was not feeling well and therefore could not wait till the second half of the proceedings, and unfortunately the suit was dismissed

for default seeking restoration of the suit, the petitioner/plaintiff filed I.A.No.261 of 2018. The trial Court by the impugned order dated 06.01.2023, dismissed the Application by observing that the petitioner has shown due diligence in pursuing the suit. Challenging the same, he filed this Appeal.

3. Heard learned counsel for the appellant/plaintiff and respondents/defendants. Perused the record.

4. Learned counsel for the appellant submits that I.A.No.261 of 2018 was dismissed for default on 10.04.2018, and the Application for restoration was filed on 02.05.2018, however, the Application was misplaced by the Section office and was placed before the trial Court on 23.10.2019. He further submits that due to pandemic lock down, the plaintiff could not pursue the matter. He submits that the only objection of the respondent is that there is delay in filing the restoration Application. Learned counsel submits that the delay occasioned was due to reasons beyond the

control of the appellant /plaintiff and therefore the suit may be restored by imposing appropriate conditions that the Court may deem fit and proper.

5. Learned counsel for the respondents submits that there is a huge delay in filing the restoration Application. It is contended that the trial Court rightly dismissed the suit for default and also dismissed the restoration Application (I.A.No.261 of 2018) by observing that there is no due diligence on the part of the petitioner/plaintiff. Learned counsel therefore submits that there are no grounds for interference.

6. Having considered the respective submissions and perusing the record, it may be noted that the learned counsel for the petitioner was present for Examination-in-chief in the morning session, however, the counsel was absent for the second half of the proceedings.

7. Considering the hurdles caused due to pandemic, and the reasons urged by the

petitioner/plaintiff that this Court is inclined to restore the suit by imposing certain conditions.

8. Accordingly, the appeal is allowed, setting aside the order dated 06.01.2023 passed in I.A.No.261 of 2018. The suit O.S.No.270 of 2009 accordingly stands restored to the file of trial Court. Petitioner/plaintiff shall pay costs of Rs.5,000/- to the respondents within a period of two (02) weeks from the date of receipt of a copy of this order. The trial Court shall proceed further in the matter, in accordance with law. No costs.

9. Consequently, miscellaneous applications pending, if any, in this Appeal, shall stand closed.

Sd/- K. SRINIVASA RAO  
JOINT REGISTRAR

//TRUE COPY//

*BA2*  
SECTION OFFICER

To,

1. The III Additional District Judge, Ranga Reddy Hyderabad
2. One CC to SRI AADESH VARMA, Advocate [OPUC]
3. One CC to M/S. CHANDRASEN LAW OFFICES, Advocate [OPUC]
4. Two CD Copies

ADK/PSL

*PS*

**HIGH COURT**

**DATED:06/12/2024**

**ORDER**

**CMA.No.309 of 2023**



**ALLOWING THE CMA  
WITHOUT COSTS**

*Geopeta  
18  
11/8/25*