IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION NO: 276 OF 2021

Petition Under Article 227 of the constitution of India against the Order dated 17.12.2020 Passed in I.A.No.711 of 2019 in O.S. No. 899 of 2014 on the file of the Court of the X Additional Chief Judge, City Civil Court, Hyderabad.

Between :

Mylan Laboratories Limited, a public limited company incorporated under the Companies Act, 1956, having its registered office at Plot No. 564/A/22, Road No. 92, Jubilee Hills, Hyderabad 500 033

...Petitioner/Plaintiff

AND

1. PSA Nitrogen Limited, a public limited company incorporated under the Companies Act, 1956, having its registered office at D-9/6, Okhla Industrial Area, Phase-I, New Delhi 110020, Represented by its Managing Director
2. PSA Nitrogen Limited, having its branch office at 416, Aditya Apartments, Durganagar Colony, Punjagutta, Hyderabad 500 082, Represented by its Manager.

...Respondents/Defendants

Counsel for the Petitioner : Mr.D.R.Hari Prasad

Counsel for the Respondents :

The Court made the following : ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION No.276 of 2021

09th DECEMBER, 2025

Between:

Mylan Laboratories Limited.

...Petitioner/Plaintiff

and

1.PSA Nitrogen Limited rep. by its Managing Director.

2.PSA Nitrogen Limited rep. by its Manager.

...Respondents/Defendants

ORDER

This Civil Revision Petition is filed by the petitioner seeking to set aside the order dated 17.12.2020 in I.A.No.711 of 2019 in O.S No.899 of 2014 passed by the learned X Additional Chief Judge, City Civil Court, Hyderabad (hereinafter referred to as "trial Court") and allow the present Civil Revision Petition and decree the suit with exemplary costs.

2. Heard **Mr.D.R.Hari Prasad,** learned counsel for the revision petitioner. None appeared for respondent No.1 despite substitute service. Notice sent to

respondent No.2 returned as unclaimed and the same is treated as deemed service. Perused the record.

3. The brief facts of the case are that the petitioner, who is a pharmaceutical company, filed a suit for recovery of money against the respondents before the Trial Court. The suit was listed on 30.01.2015, on which date counsel appeared on behalf of the respondents and sought time to file vakalatnama. Thereafter, the respondents/defendants sought time to file their written statement despite the expiry of the statutory period. On 27.04.2016, vakalatnama was filed on behalf of the respondents; however, no written statement was filed within 30 days from the date of service of summons, nor within the extended period of 90 days, which was granted up to 27.07.2016. As the respondents/defendants failed to file the written statement within the statutory period and did not seek any further extension of time, they forfeited their statutory right to file the written statement. Consequently, the respondents/defendants were set *ex-parte* by the Trial Court.

4. Subsequently, respondent No.1/defendant No.1 filed I.A.No.208 of 2017 in O.S. No.899 of 2014 under Order IX Rule 7 CPC, seeking to set aside the *ex-parte* order dated 12.06.2018. The said application was dismissed by the trial Court. Aggrieved thereby, the respondents/defendants filed C.R.P.

No.6383 of 2018 before this Court. This Court, vide order dated 11.03.2019, dismissed the said C.R.P., thereby upholding the order dated 12.06.2018 passed by the trial Court in I.A.No.208 of 2017 in O.S.No.899 of 2014. Against the said order, no SLP was preferred. Thereafter, the trial Court proceeded with the plaintiff's evidence and examined PW1. As the respondents/defendants did not choose to appear before the trial Court or participate in the proceedings, the matter was reserved for judgment, and the learned Judge ultimately decreed the suit in O.S.No.899 of 2014 on 08.04.2019.

5. Subsequently, the respondents/defendants filed another interlocutory application in I.A. No.711 of 2019 in O.S.No.899 of 2014 under Order IX Rule 13 CPC, seeking to set aside the *ex-parte* judgment and decree dated 08.04.2019. The petitioner/plaintiff herein filed a counter-affidavit opposing the said application, contending that the respondents/defendants have adopted a negligent approach and failed to furnish any valid or sufficient reason for not filing the written statement on 13.09.2016. It was further contended that, in view of the order dated 11.03.2019 passed by this Court in C.R.P. No.6383 of 2018, the application in I.A.No.711 of 2019 in O.S.No.899 of 2014 was liable to be dismissed. However, the trial Court, vide order dated 17.12.2020,

allowed I.A.No.711 of 2019, subject to the condition that the respondents/defendants shall pay a sum of Rs.2,000/- to the petitioner herein.

6. Aggrieved by the order dated 17.12.2020 passed in I.A. No.711 of 2019 in O.S. No.899 of 2014, the present Civil Revision Petition has been filed. The principal ground urged is that the learned trial Judge failed to take into consideration the earlier orders passed by this Court, wherein the issue relating to the respondents' non-appearance during the relevant period had already been adjudicated. The said issue was earlier agitated by the respondents/defendants by filing an application under Order IX Rule 7 CPC in I.A. No.208 of 2017 in O.S.No.899 of 2014, which was dismissed by the trial Court on 12.06.2018 and the said dismissal was affirmed by this Court vide order dated 11.03.2019 in C.R.P. No.6383 of 2018.

7. It is further averred that the learned Judge, while allowing I.A.No.711 of 2019 dated 17.12.2020, proceeded contrary to the provisions of Order IX Rule 13 and Section 151 CPC and, thereby, failed to exercise the jurisdiction vested in the Court. According to the petitioner, the impugned order reflects a mechanical approach, passed without proper application of mind to the statutory requirements under Order IX Rule 13 CPC and Section 151 CPC, and without due consideration of the objections raised by the petitioner herein. It is

further contended that the respondents/defendants failed to establish any genuine or valid reason for seeking relief under Order IX Rule 13 CPC, and that the trial Court committed a grave error in allowing I.A.No.711 of 2019 in the absence of any cogent or acceptable justification.

8. The point that arises for consideration before this Court is *"whether the learned trial Judge committed any error in allowing the application filed under Order IX Rule 13 CPC, despite the orders passed by this Court in C.R.P.No.6383 of 2018 dated 11.03.2019"*.

9. Before adverting to the said issue, it is pertinent to note that earlier the respondents/defendants had filed I.A. No.208 of 2017 in O.S. No.899 of 2014 under Order IX Rule 7 CPC, seeking to set aside the ex-parte order dated 13.09.2016. The said application was dismissed by the trial Court on 12.06.2018, against which C.R.P. No.6383 of 2018 was preferred before this and in the said C.R.P this Court observed as under:

> *"...Petitioner No.1, however, slept over its rights till 14.03.2017, simply alleging that the counsel has not informed about the status of the suit. This cannot be countenanced, because it is the duty of petitioner No.1 and its employees to keep track of the proceedings in the suit. I am, therefore, of the opinion that petitioner No.1 had been grossly negligent in protecting its interest in the suit and the Court below did not commit any error of jurisdiction in dismissing I.A.No.208 of 2017..."*

In view of the dismissal of the said application in I.A.No.208 of 2017, the *ex-parte* order was not set aside and, consequently, the suit was decreed *ex-parte*. Aggrieved thereby, the respondents/defendants filed an application under Order IX Rule 13 CPC in I.A. No.711 of 2019 in O.S.No.899 of 2014. The said application, which is the subject matter of the present proceedings, was allowed by the trial Court.

10. On a perusal of the impugned order passed by the trial Court, paragraph No.10 reads as under:

> *"....The petitioners, as per the contents of the petition appears to have gone to the level of Hon'ble High Court for getting the exparte order set aside and they were even prepared to prefer SLP. The petitioners plead ignorance of the procedure that is being followed in the Telangana area. However, the contention of the respondents that the reasons assigned by the petitioners for not being able to file the written statement is not convincing. Since, the petitioners are pleading that they have strong case and they are not liable to pay any amount and intend to contest matter and I am inclined to give an opportunity to the petitioners by imposing some conditions. Point is answered accordingly. In the result, the petition is allowed and ex-parte judgment and decree passed on 08.04.2019 is set aside. The petitioner shall pay Rs.2,000/- to the respondent...."*

The reason assigned by the defendants for seeking to set aside the *ex-parte* decree was that the counsel earlier engaged by them failed to represent them in the Suit and did not evince any interest in prosecuting the matter. Consequently, they instructed another counsel to appear on their behalf; however, the said counsel was not permitted to represent them as no

vakalatnama had been filed. It is stated that arguments were heard on 04.04.2019, the matter was reserved for judgment on the same day, and the judgment was thereafter pronounced on 08.04.2019.

11. It is further contended that, notwithstanding the defendants having been set *ex-parte,* they ought to have been afforded an opportunity to cross-examine the witness who had filed the chief-examination affidavit. However, no such opportunity was granted. It is also contended that, owing to their lack of proper procedural knowledge in the State of Telangana, they did not execute or file a "no-objection" vakalatnama in favour of the newly engaged counsel to enable him to represent them in the matter.

12. On a perusal of the impugned order passed by the trial Court and the grounds urged for setting aside the *ex-parte* decree, the learned counsel for the petitioner contended that ignorance of law is no excuse. It was argued that the procedure for setting aside an *ex-parte* decree is well settled and uniform, and that the provisions of the Code of Civil Procedure are applicable throughout the Country. It was specifically contended that the respondents/defendants were already represented by counsel and, therefore, it cannot be said that they were deprived of legal advice. In such circumstances, the explanation offered by them appears to be illogical and untenable.

13. It was further contended that, although the learned trial Judge recorded a finding that the reasons assigned by the respondents/defendants for their failure to file the written statement were not convincing, the Court nevertheless allowed the application solely on the ground of affording them an opportunity to contest the matter, by imposing costs of Rs.2,000/-. According to the petitioner herein, the impugned order does not disclose any cogent reasons for arriving at such a conclusion, and the reasons assigned by the learned Judge for allowing the application are not supported by any settled principles of law.

14. Learned counsel for the petitioner did not accept the version put-forth by the respondents/defendants, contending that granting yet another opportunity to the respondents/defendants, who had slept over their rights and failed to diligently pursue the matter before the trial Court, had already resulted in the passing of an *ex-parte* decree. Even otherwise, the reasons now cited by the respondents/defendants were earlier urged and rejected by the trial Court while dismissing I.A.No.208 of 2017 in O.S.No.899 of 2014. The very same grounds were again not accepted by this Court in C.R.P. No.6383 of 2018.

15. In view of the consistent findings recorded earlier and considering the negligent conduct of the respondents/defendants in pursuing their remedies and safeguarding their rights before the trial Court, this Court is of the opinion that

the respondents/defendants do not deserve any liberal or lenient approach. The order passed by the learned trial Judge allowing I.A.No.711 of 2019, therefore, suffers from a clear error apparent on the face of the record and warrants interference by this Court.

16. Accordingly, the Civil Revision Petition is allowed, and the order dated 17.12.2020 passed in I.A.No.711 of 2019 in O.S. No.899 of 2014 by the trial Court is hereby set aside. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

Sd/- M. OSMAN ALI BAIG
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,
1. The X Additional Chief Judge, City Civil Court, Hyderabad.
2. One CC to Sri Shireen Sethna Bana, Advocate [OPUC]
3. Two CD Copies

Svs/kam

HIGH COURT

DATED:09/12/2025



ORDER

CRP.No.276 of 2021

ALLOWING THE CRP

SMT
22/1/26