APHC010196022024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

WEDNESDAY, THE 18th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL NO: 308 OF 2024

Between:

1. MAGANTI USHA RANI, W/o Venkata Ramana Rao, aged about 57 years, R/o Flat No. 302, Jyothi Nest, Road No.2, Banjara Hills, Hyderabad, Telangana State.

...APPELLANT

AND

1. PHR INVENT EDUCATION SOCIETY VIJAYAWADA, Represented by its Secretary P. Narendra Babu, S/o Hanumantha Rao, Hindu, aged 59 years, R/o Flat No. 58. K.P. Nagar, Near Stella College, Benz Circle, Vijayawada, Krishna (NTR) District.

...RESPONDENT

Appeal Under Section_____against ordersbeg to present this Memorandum of Civil Miscellaneous Appeal against the orders dated 06.19.2023 made in I.A.No. 398 of 2023 in O.S.No. 160 of 2022, of the Court of XII Additional District Judge, Vijayawada,

IA NO: 1 OF 2024

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 Pleased to condone the delay of 140 days in filing present

Civil Miscellaneous Appeal against the dismissal order dated 06.09.2023 in LA. No. 398 of 2023 in O.S. No. 160 of 2022, before the Court of the Xll Additional District Judge, Vijayawada,

IA NO: 2 OF 2024

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 Pleased to stay all further proceedings pursuant to the ex-parte Judgment and decree dated 28.02.2023 O.S. No. 160 of 2022, before the Court of the Xll Additional District Judge, Vijayawada, and pass

Counsel for the Appellant: VINOD KUMAR PEMMASANI

Counsel for the Respondent PILLIX LAW FIRM

The Court made the following order:

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL NO: 308 OF 2024

JUDGMENT: *(as per Sri Hon'ble Justice D.Ramesh)*

This Civil Miscellaneous Appeal is filed by the appellant/defendant, aggrieved by the orders dated 06.09.2023 in I.A.No.398 of 2023 in O.S.No.160 of 2022, on the file of the learned XII Additional District Judge, Vijayawada.

2. The respondent/plaintiff filed O.S.No.160 of 2022 for recovery of Rs.2,43,25,510/-**,** including interest. The suit was decreed ex parte vide order dated 28.02.2023.

3. Subsequently, the appellant/defendant filed an application under Order IX Rule 13 of C.P.C. to set aside the ex parte decree and judgment. The trial Court considered the said application and rejected the same vide the impugned order dated 06.09.2023, mainly on the ground that the appellant/defendant had received the suit summons from the Court Ameen and subsequently refused to receive the summons. The trial Court based on the record has narrated that the suit was filed on 12.12.2022, and the matter was posted to 18.01.2023 for the appearance of the defendant. Accordingly, the suit summons were sent to the defendant's address in Hyderabad. The Court Ameen attempted to serve the summons on 19.01.2023. At the first instance, the defendant accepted the summons and endorsed "received copy" on the backside of the summons issued by the Court. Subsequently, she changed her mind, struck down

the endorsement, and refused to receive the summons. Hence, the Ameen affixed the notice on the door of the defendant's residence and given a report to that effect and as such, the trial Court held that the service is sufficient and proceeded with the matter setting the defendant exparte.

4. Per contra, the appellant submitted that she went abroad (USA) on 13.02.2023 and returned on 20.03.2023, whereas, as per the report of the Serving Officer, she had refused to receive the summons on 16.02.2023. Initially, though she denied the same, as per the additional affidavit dated 15.11.2026 filed by the defendant, she admitted that the Court Ameen had attempted to serve the notice and that, in view of the absence of her husband, she refused to receive the summons. Further, she denied compliance with Order V Rule 19 of C.P.C. Though it was stated that the notice was refused and a copy of the summons was affixed to the doors of the defendant's residence, no such affixture was made by the Court Ameen. In fact, he took back the notice and returned it with an endorsement of refusal.

5. Based on the above, the learned counsel for the appellant mainly contended that the parties are brother and sister and that, with regard to the transactions, she had stated that the said transactions were gift deeds and the application was filed within the time.

6. The learned counsel appearing for the plaintiff/respondent strongly opposed the appeal. In fact, she purposefully avoided receiving the notice, fully knowing about the transactions, and even before instituting the suit,

the plaintiff had issued a notice to which she had replied. Strangely, after refusing to receive the notice, there are no grounds to contest the matter by filing the present appeal.

7. Considering the submissions, though this Court is not inclined to interfere in matters of this nature, taking into consideration the relationship between the parties, hearing both sides, and upon perusal of the record, this Court is of the opinion that, instead of dismissing the appeal, the matter should be decided on merits.

8. Accordingly, this Court is inclined to allow this appeal subject to certain terms.

i. The decree and judgment dated 28.02.2023, along with the order dated 06.09.2023 passed in I.A.No.398 of 2023, are hereby set aside, subject to the payment of costs of Rs.50,000/- to the plaintiff by the appellant/defendant within a period of four (4) weeks from the date of receipt of a copy of this order.

ii. The appellant/defendant is further directed to file her written statement within a period of four (4) weeks.

iii. Upon filing of the written statement, the trial Court shall provide one-time opportunity to the parties to explore the possibility of settlement through alternative dispute resolution (ADR) within a period of one (1) month.

iv. In the event of failure of settlement between the parties, the trial Court shall proceed with the trial and dispose of the matter

as expeditiously as possible, preferably within a period of six (6) months thereafter.

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

JUSTICE D.RAMESH

JUSTICE A.HARI HARANADHA SARMA

Date: 18.11.2026
MH/GNP

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

26

CIVIL MISCELLANEOUS APPEAL NO: 308 OF 2024

18.11.2026
MH/GNP