IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CIVIL REVISION PETITION NO: 2706 OF 2023

Petition under Article 227 of the Constitution of India, aggrieved by the Order dated 20/06/2023 in IA No. 32 of 2023 in I.A No. 143 of 2021 in O.S No. 866 of 2019 on the file of the VI Addl. Junior Civil Judge-cum-VI Addl. Metropolitan Magistrate, Ranga Reddy at LB Nagar.

Between:

1. Smt. M. Sarojini (DIED), (died as per LRS).
2. Muktha Anjaiah, S/o. Late Pentaiah, Aged about 65 years, Occ. Business, Rio. H. No. 3-6-505, Street no. 6, Himayath Nagar, Hyderabad.
3. K. Vara Laxmi @ Anjamma, D/o. Late M. Pentaiah, W/o. K. Venkataiah, aged 55 Years, Occ. Housewife, R/o. H. No. 12-11-1438, Boudia Nagar, Warasiguda, Secunderabad.
4. A. Lalitha, D/o. Late M. Pentaiah, W/o. A. Prasad Rao, aged 54 years, Occ. Housewife, R/o H.No. 14.2-337/13/1, Goshamahal, Hyderabad -500 012.
5. M. Padma, W/o. Late M. Raju, aged 53 years, Occ. Housewife, R/o. H. No. 3-6-505, Street no. 6, Himayath Nagar, Hyderabad.
6. M. Vanishree, W/o. Late M. Narsingh Rao, aged 47 years, Occ. Housewife, R/o. H.No. 17-2-1165, Rain Bazar, Hyderabad.
7. M. Krishna Mohan, S/o. Late M. Raju, aged 34 years, Occ. Business, R/o. H. No. 3- 6 -505, Street no. 6, Himayath Nagar, Hyderabad.
8. M. Kranthi Kumar, S/o. Late M. Raju, aged 32 years, Occ. Business, R/o. H. No. 3-6-505, Street no. 6, Himayath Nagar, Hyderabad.
9. M. Nagaraju, S/o Late M. Raju, aged 31 years, Occ. Business, R/o. H. No. 3-6-505, Street no. 6, Himayath Nagar, Hyderabad.
10. M. Shiva, S/o Late M. Narsingh Rao, aged 28 years, Occ. Business, R/o. H. No. 17-2-1165, Rain Bazar, Hyderabad.
11. M. Maruthi Kumar, S/o Late M. Narsingh Rao, aged 25 years, Occ. Business, R/o. H. No. 17-2-1165, Rain Bazar, Hyderabad.
12. G. Reena, D/o. Late M. Narsingh Rao, W/o G. Bhaskar Rao, aged 30 years, Occ. Housewife, R/o. H. No. 8-2-68/4-5, Karmanghat, Hyderabad.

13. M. Tina, G. Reena, D/o Late M.Narsingh Rao, W/o Rahul. aged 28 years, Occ. Housewife, R/o H. No. 3-6-505, Street No.6, Himayath Nagar, Hyderabad.

14. M. Ravi Kumari, W/o. M. Anajaiah, aged 60 years, Occ. Housewife, R/o H.No. 3-6-505, Street No.6, Himayath Nagar, Hyderabad.

...PETITIONERS

AND

Shaik Nayeem Miyan, S/o. Shaik Dada Miyan Aged about. 50 years, Occ. Business, R/o. H.No. 20-7-577/1, Iqbal Daula ki Devdi, Fathe Darwaza, Hyderabad, Rep., by GPA Holder Syed. Daweed Hussaini S/o. Late Syed Chand Hussaini Aged about. 53 years, Occ. Business, R/o. H.No. 20-3-820/2, Shah Gunj, Hyderabad

...RESPONDENT

I.A. NO: 1 OF 2023

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 to Stay all further proceedings in the suit vide O.S No. 866 of 2019 on the file of the VI Addl. Junior Civil Judge-cum-VI Addl. Metropolitan Magistrate, Ranga Reddy at LB Nagar and pass

Counsel for the Petitioners : Sri. G Kalyan Chakravarthy

Counsel for the Respondent : Sri. Mullangi Rami Reddy

The Court made the following : ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HONOURABLE SMT. JUSTICE K. SUJANA

CIVIL REVISION PETITION No.2706 of 2023

CNR.No.HBHC010576462026

DATE: 05.10.2026

BETWEEN:

M. Sarojini (died as per LRs) and others

.....petitioners

And

Shaik nayeem Miyan

.....Respondent

ORDER

This Civil Revision Petition is filed challenging the order dated 20.06.2023 passed in I.A.No.32 of 2023 and I.A.No.143 of 2021 in O.S.No.866 of 2019 by the learned VI Additional Junior Civil Judge-cum-VI Additional Metropolitan Magistrate, L.B. Nagar.

2. I.A.No.143 of 2021 was filed by the petitioners under Order IX Rule 7 CPC seeking to set aside the ex parte order passed against him/her in O.S.No.866 of 2019. The said application was dismissed for default on 30.11.2022, as the petitioners failed to appear before the trial Court and pursue the said application. Thereafter, the petitioners filed I.A.No.32 of 2023 seeking restoration of I.A.No.143 of 2021.

3. The trial Court, by the impugned order dated 20.06.2023, dismissed I.A.No.32 of 2023 holding that the said application was not maintainable and that the petitioners ought to approach the appellate forum.

4. Heard Sri G. Kalyan Chakravarthy, learned counsel appearing on behalf of the petitioners as well as Sri Mullangi Rami Reddy, learned counsel appearing on behalf of the respondent.

5. Learned counsel for the revision petitioners submitted that I.A.No.32 of 2023 is not a second application under Order IX Rule 7 CPC seeking to set aside the ex parte order passed in O.S.No.866 of 2019. It is only an application seeking restoration of I.A.No.143 of 2021, which had earlier been

dismissed for default. Therefore, the trial Court erred in holding that the application was not maintainable and that the remedy of the petitioners was to approach the appellate Court. He further submitted that the petitioners has a right to contest the amendment application and to file a counter thereto, but the trial Court did not permit the petitioners to do so on the ground that the petitioners had already been set ex parte in O.S.No.866 of 2019. It is contended that unless I.A.No.143 of 2021 is restored and considered, the petitioners would be seriously prejudiced in defending the suit. Therefore, he prayed that the Civil Revision Petition be allowed and the matter be remitted to the trial Court for consideration of I.A.No.32 of 2023 on merits.

6. On the other hand, learned counsel for the respondent submitted that the petitioners are not diligent in prosecuting the proceedings before the trial Court. Though the petitioners filed I.A.No.143 of 2021, she failed to appear before the trial Court and pursue the said application, resulting in its dismissal for default on 30.11.2022. Thereafter, I.A.No.32 of 2023 was filed after a considerable delay and without filing any application seeking condonation of delay. Even in I.A.No.32 of 2023, the petitioners failed to appear before the trial Court on the date of

hearing. It is further submitted that the conduct of the petitioners would show that she is not interested in prosecuting the proceedings and is only attempting to delay the disposal of the suit. Therefore, he prayed for dismissal of the Civil Revision Petition.

7. In the light of the submissions made by both the learned counsel and upon perusal of the material available on record, the point that arises for consideration is whether the trial Court was justified in dismissing I.A.No.32 of 2023 on the ground that the same was not maintainable and that the petitioners has to avail the remedy before the appellate Court.

8. A perusal of the record would disclose that I.A.No.143 of 2021 was filed by the petitioners under Order IX Rule 7 CPC seeking to set aside the ex parte order passed against her in O.S.No.866 of 2019. The said application was subsequently dismissed for default. I.A.No.32 of 2023 was thereafter filed for restoration of I.A.No.143 of 2021.

9. Therefore, I.A.No.32 of 2023 cannot be construed as a second application seeking to set aside the ex parte order under Order IX Rule 7 CPC. The relief sought in I.A.No.32 of 2023 is

only for restoration of the earlier application, i.e., I.A.No.143 of 2021, which was dismissed for default. The trial Court, therefore, ought to have considered the application in that proper perspective and examined whether the petitioners had shown sufficient grounds for restoration of I.A.No.143 of 2021.

10. The observation of the trial Court that the application is not maintainable and that the petitioners has to approach the appellate Court does not appear to be proper, particularly when the petitioners is not seeking, by way of I.A.No.32 of 2023, a fresh order under Order IX Rule 7 CPC, but is seeking restoration of the earlier application which was dismissed for default. The question whether the petitioners has shown sufficient cause for her non-appearance and whether the delay, if any, in seeking restoration is properly explained are matters which have to be considered by the trial Court on their own merits.

11. It is also relevant to note that the respondent has raised several objections with regard to the conduct of the petitioners, including the alleged delay in filing I.A.No.32 of 2023 and the failure of the petitioners to appear before the trial Court. Those objections cannot, by themselves, render the application for

restoration non-maintainable. The same are matters which may be considered by the trial Court while deciding I.A.No.32 of 2023 in accordance with law.

12. In the circumstances, this Court is of the view that the trial Court committed an error in dismissing I.A.No.32 of 2023 at the threshold on the ground of maintainability and relegating the petitioners to the appellate remedy. The application requires consideration on its own merits after affording reasonable opportunity to both sides.

13. Accordingly, the Civil Revision Petition is allowed. The order dated 20.06.2023 passed by the learned VI Additional Junior Civil Judge-cum-VI Additional Metropolitan Magistrate, L.B. Nagar, in I.A.No.32 of 2023 in O.S.No.866 of 2019 is hereby set aside. The matter is remitted to the trial Court for fresh consideration of I.A.No.32 of 2023 on merits, after affording reasonable opportunity of hearing to both sides and in accordance with law.

14. The trial Court shall decide I.A.No.32 of 2023 uninfluenced by any of the observations made by this Court in the present order. It is made clear that this Court has not

expressed any opinion on the merits of the claim made in I.A.No.32 of 2023, including the alleged delay or the reasons for the non-appearance of the petitioners, and all such aspects are left open for consideration by the trial Court. There shall be no order as to costs.

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

SD/- P. PONNA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VI Addl. Junior Civil Judge-cum-VI Addl. Metropolitan Magistrate, Ranga Reddy at LB Nagar.
2. One CC to SRI. G KALYAN CHAKRAVARTHY Advocate [OPUC]
3. One CC to SRI. MULLANGI RAMI REDDY Advocate [OPUC]
4. Two CD Copies

TPK/GNK

HIGH COURT

DATED: 05/10/2026



ORDER

CRP.No.2706 of 2023

CIVIL REVISION PETITION IS ALLOWED