

ORDER ON I.A.No.6

Sri.S.R.S., advocate for Respondent filed this application U/s 151 of CPC to permit them to file objection to main petition.

2. In the affidavit contended that, the petitioner has filed this petition being aggrieved by the judgment and decree passed in O.S 258/2016 dated 20.09.2016 due to some unavoidable circumstances and domestic problems respondent could not contact her counsel to instruct to file the objection in time. The non-filing of objection is not intentional one. If the application is allowed no loss will caused to the other side. On the other hand, the respondent will put to untold hardship. Hence, prays to allow the application.

3. On the other hand, the petitioner counsel filed objection. In the objection contended that, the application is not maintainable. The O.S No.258/2016 is filed on the file of this Hon'ble Court for the relief of Specific Performance of contract in respect of schedule property on the basis of created and concocted false sale agreement. The suit was decreed exparte. The petitioners have no knowledge about the exparte decree.

Mis 07/2018

The petitioners came to know about the decree in O.S No.258/2016 after only receipt of notice in E.P 10/2017. The petitioner filed the petition in the year 2018 and the respondent deliberately not filed objection with malafide intention to drag the proceedings. The respondent has not given satisfactory explanation for the delay in filing the present application. Hence, prays to reject the application.

4. Heard both the sides.

5. After going through the material available on record, the petitioner filed this petition to set aside the exparte decree passed in O.S No.258/2016. As per the records, the notice served on the respondent by way of paper publication and the respondent placed exparte on 08.09.2022 and subsequently on 20.01.2023 respondent appeared through counsel and now the case is posted for petitioner evidence at this stage the respondent filed present application along with objection. On the other hand, the petitioner contended that, deliberately did not filed objections and there is no sufficient reasons.

Mis 07/2018

Considering the same, in the interest of justice it is necessary to give an opportunity to the respondent to file objection and contest the matter by imposing certain costs. Hence, in the interest of justice, it is necessary to allow the application. Hence, this court proceed to pass the following;

ORDER

I.A.No.6 filed U/s 151 of CPC is
hereby allowed on costs of Rs.200/-.

Objection to main petition by
respondent taken on record.

Call on for petitioner evidence
by 16.02.2024.

(SURESH ANNAPPA SAVADI)

Prl. Civil Judge & JMFC.,
Kanakapura.