

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

**TUESDAY, THE TWENTY NINTH DAY OF OCTOBER  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE SMT JUSTICE P.SREE SUDHA**

**I.A.NO.2 OF 2023  
IN  
APPEAL SUIT NO: 165 OF 2010**

**Between:**

Biswajith Nath, S/o. Late J.Nath, Aged 58 years, R/o Flat No.A-1203, Honer Vivantis Apartments, Survey No.76/A, Tellapur Road, Gopanpally, Hyderabad..

**...PETITIONERS/APPELLANTS**

**AND**

1. P.Shantharam, S/o. Subhashiva Rao, Aged about 50 years, R/o. 2220, West Mission Lanes Apartments, No. 2199, Phoneix AZ-85021, USA. Represented by his GPA Holder, P.Srinivas Rao, S/o. Sambasiva Rao, aged 52 years, R/o Thotlapalem, Peruru Post, Amalapuram, East Godavari District.
2. K.Srinivas Reddy, S/o. Narasimha, aged major R/o. Flat No. 405, Sree Towers, Chanda Nagar, Hyderabad.

**...RESPONDENTS/ RESPONDENTS**

Petition under Order IX Rule 13 of C.P.C., praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to set aside the Order dated .09.2023 in A.S. No.165 of 2023.

**Counsel for the Appellant: SRI. M.V. PRATAP KUMAR**

**Counsel for the Respondent No.1: SRI S M SUBHAN**

**The Court made the following: ORDER**

This application is filed to set aside the order dated 21.09.2023 in A.S.No.165 of 2023.

On 19.08.2023, as there was no representation by the learned counsel for appellant, the matter was listed under the caption 'for dismissal'. On 21.09.2023 and as there was no representation, the appeal was dismissed for non-prosecution.

Learned counsel for petitioner/appellant stated that he was reallocated to Amaravathi and as there was lack of communication between him and petitioner, they did not know about the dismissal of the appeal. Later petitioner engaged another counsel and then he came to know about the dismissal of the appeal and thus non-appearance is not willful.

In a counter filed by respondent, they contended that decree in O.S.No.190 of 2004 was passed on 08.10.2009 and there was no stay and respondent was made to turn around the Court since 2004 and the appeal was pending from 15 years and no sufficient reasons were mentioned in the application and thus requested the Court to dismiss the application.

As the Counsel was reallocated to Amaravathi, he could not represent before the Court. Therefore, this Court finds it is just and reasonable to set aside the order and to given an opportunity to the appellant.

This application is allowed on costs of Rs.3,000/- to be paid to the Telangana State Legal Services Authority, within one week from the date of this Order.

//TRUE COPY//

Sd/- K. SRINIVASA/RAO  
JOINT REGISTRAR

SECTION OFFICER

To

1. The IV Additional Senior Civil Judge (FTC), Ranga Reddy District at L.B.Nagar.
2. The Telangana Legal Services Authority, High Court for the State of Telangana at Hyderabad.
3. One CC to SRI. M.V. PRATAP KUMAR, Advocate [OPUC]
4. One CC to SRI. S M SUBHAN, Advocate [OPUC]
5. Two CD Copies

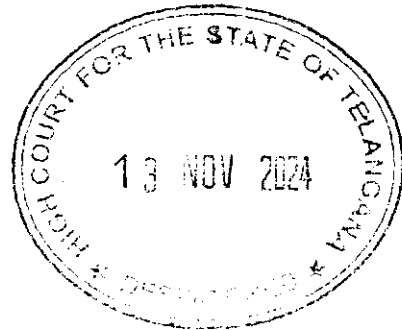
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**Note:** Total Amount of Rs. 3,000/- ( Rupees Three thousand only ) has been paid by Sri M.V.PRATAP KUMAR, Counsel for the Petitioner as directed by the Hon'ble Court vide order dated 29.10.2024 in I.A.NO.2 OF 2023 as Rs. 5,000/- ( Rupees Five thousand only ) to the Telangana High Court Advocates Association, Hyderabad and filed Memo as proof of compliance USR No.105930 dated 30.10.2024

**HIGH COURT**

**DATED: 29/10/2024**

**ORDER  
I.A.NO.2 OF 2023  
IN  
AS.No.165 of 2010**



**ALLOWING THE I.A.  
ON COSTS**

7  
13/11/24  
OK