



IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWENTY SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION NOS: 3768 & 3770 OF 2023

CIVIL REVISION PETITION NO: 3768 OF 2023

Between:

Dr P Sri Venkata Durga Arun Kumar, S/o Late shri Perika Adinarayana, Aged about 56 years, Occ: medical practitioner, Currently r/o United kingdom rep by GPA holder Mr P Bhoopal Reddy s/o P Malla Reddy r/o H.No 2-58 Dubbagubatpalli Jangoan Dist Telangana State

...Petitioner / Plaintiff
in both the CRPs

AND

1. Guru Kondaveeti Jyothrimayee Central Trust, rep by By chairman K Chalapathi Rao 122-A Kalyana Nagar Hyderabad
2. K Chalapathi Rao, s/o Nageshwara Rao, Aged 53 years Occ Business r/o 8-3-167/F/122/A/404 Klayani nagar Hyderabad

...Respondents / Defendants
in both the CRPs

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to allow the revision petition by setting aside the order dt 9-10-2023 passed in IA No 440 of 2023 in U/R CMA 36 of 2023 on the file of Principal district Judge at Bhongir.

IA 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 suspend the order dt 9-10-2023 passed in IA No 440 of 2023 in U/R CMA 36 of 2023 on the file of Pri. Dist. Judge, Bhongir pending the revision.



2024:TSHC:54052

CIVIL REVISION PETITION NO: 3768 OF 2023

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to allow the revision petition by setting aside the order dt 9-10-2023 passed in IA No 441 of 2023 in U/R CMA 37 of 2023 on the file of Principal district Judge at Bhongir.

IA 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 suspend the order dt 9-10-2023 passed in IA No 441 of 2023 in U/R CMA 37 of 2023 on the file of Pri Dist. Judge, Bhongir pending the revision.

Counsel for the Petitioner(s): Sri T. Sharath

Counsel for the Respondent No.1: Sri Venugopal Julakanti

The Court made the following Common Order:-

**THE HONOURABLE SMT. JUSTICE P.SREE SUDHA****CIVIL REVISION PETITION Nos.3768 & 3770 of 2023****COMMON ORDER:**

Parties in both these revisions are one and the same and they raise common issue. Therefore, with their consent, they are being disposed of by a common order.

2. C.R.P.No.3768 of 2023 is filed against the order dated 09.10.2023 passed in I.A.No.440 of 2023 in U/R.CMA No.36 of 2023 by the Principal District Judge at Bhongir.

3. C.R.P.No.3770 of 2023 is filed against the order dated 09.10.2023 passed in I.A.No.441 of 2023 in U/R.CMA No.37 of 2023 by the Principal District Judge at Bhongir.

4. Petitioner herein filed O.S.No.38 of 2021 for declaration and cancellation of registered gift settlement deed dated 16.02.2008 and also for perpetual injunction. Along with the suit, he also filed I.A.Nos.130 and 135 of 2021 for temporary injunctions and the same were allowed on 20.06.2022. Aggrieved by the said orders, respondents/defendants herein preferred U/R CMA Nos.36 and 37 of 2023. Since there is delay in filing the said



appeals, respondents/defendants filed I.A.Nos.440 and 441 seeking to condone the delay of 283 days and 289 days respectively in filing the aforesaid CMAs. The trial Court after considering the arguments of both sides, allowed the said applications on 09.10.2023. Aggrieved by the said orders of the trial Court, petitioner/plaintiff herein filed the present Civil Revision Petitions.

5. Learned counsel for petitioner/plaintiff contended that reasons for delay were not properly assigned by the respondents except a statement that advocate had not informed them about the passing of the said orders.

6. Learned counsel for petitioner/plaintiff relied upon a decision rendered by the Hon'ble Apex Court in **Sahil Dutta Vs T.M. and M.C.Private Limited**¹, in which it was held as follows:

The advocate is the agent of the party. His acts and statements, made within the limits of authority given to him, are the acts and statements of the principal i.e. the party who engaged him. Though in certain situations, the court may, in the interest of justice, set aside a dismissal order or an ex parte decree notwithstanding the negligence and/or misdemeanor of the advocate where it finds that the client

¹ (1993) 2 SCC 185



was an innocent litigant but there is no such absolute rule that a party can disown its advocate at any time and seek relief. No such absolute immunity can be recognised. Such an absolute rule would make the working of the system extremely difficult. The defendant is also not a rustic ignorant villager but a private limited company with its head office at Calcutta itself and managed by educated businessmen who know where their interest lies. It is evident that when their applications were not disposed of before taking up the suit for final hearing they felt plucked and refused to appear before the court. Maybe, it was part of their delaying tactics as alleged by the plaintiff. Maybe not. But one thing is clear - they chose to non-cooperate with the court. Having adopted such a stand towards the court, the defendant has no right to ask its indulgence. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory which cannot be accepted and ought not to have been accepted.

7. In the affidavit, it was stated that the injunction orders passed in I.A.Nos.130 and 135 of 2022 were not informed to respondents/defendants by their previous counsel and thereafter they engaged another counsel on 05.06.2023 and applied for certified copies of the orders and as such there is a delay in filing the appeals. The delay is neither willful nor wanton.

8. Perusal of the record shows that the suit was filed by the revision petitioner for declaration and cancellation of registered gift settlement deed and for perpetual injunction. During the pendency of the proceedings, petitioner filed

applications for temporary injunction and also not to interfere with his peaceful possession of suit property and the same were allowed. Aggrieved by the said order, respondents/defendants filed U/R CMA Nos.36 and 37 of 2023 with a delay of 283 and 289 days in filing the appeals, as such filed L.A.Nos.440 and 441 to condone the delay of 283 days and 289 days and the same were allowed. The contention of the learned counsel for respondents/defendants that they did not know about the orders of the trial Court is not satisfactory. Now-a-days, the case status can be checked online or by going to advocate's office, and calling the advocate through mobile phone but they failed to do so and filed the CMAs, with an abnormal delay of 9 months. Therefore, this Court finds that the trial Court allowed the applications without proper appreciation of the facts and therefore, the orders of the trial Court are liable to be set aside.

9. In the result, these Civil Revision Petitions are allowed by setting aside the impugned orders of the trial Court 09.10.2023 passed in L.A.No.440 of 2023 in U/R.CMA No.36



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of 2023 and I.A.No.441 of 2023 in U/R.CMA No.37 of 2023.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

Sd/- A.V.S. PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal District and Sessions Judge, Bhongir.
2. One CC to Sri T. Sharath, Advocate [OPUC]
3. One CC to Sri Venugopal Julakanti, Advocate [OPUC]
4. Two CD Copies

VC/gh

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HIGH COURT

DATED:27/09/2024

COMMON ORDER

CRP.Nos.3768 & 3770 of 2023

ALLOWING BOTH THE CRPs

⑥ JGpi8

5/12/24