

@1
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4554 OF 2017
(Arising out SLP (C) No. 5510 of 2015)
SRIVATSA & ANOTHER

Appellant (s)

VERSUS

A.H. SHARADA

Respondent(s)

O R D E R

1) Leave granted.
2) Heard the learned counsel appearing for the parties.
3) The only question for our consideration is whether a petition filed under Order IX Rule 13 of the CPC which has been dismissed by the High Court should be allowed at this stage.
4) We have seen that an order has been passed by the Trial Court rejecting the petition filed by the appellants under Order IX Rule 13 to set aside ex parte judgment passed in O.S. No. 8086/2007. The Trial Court held that if the appellants' counsel had not attended Court and prosecuted the defence, that would not amount to sufficient cause for the purposes of Order IX.
5) After considering the facts and circumstances of the case, we feel that it would be appropriate for us to set aside the order passed by the High Court on the ground that the appellants' counsel, who was to take necessary steps in the matter failed, and for the negligence of an advocate,

2
the litigant should not suffer.

6) In view of this, the order passed by the High Court is set aside and the appeal is allowed, however, with costs awarded at Rs.10,000/- .

..... J.
(PINAKI CHANDRA GHOSE)
..... J.
(ROHINTON FALI NARIMAN)

New Delhi;
March 27, 2017.

3

ITEM NO.1 COURT NO.6 SECTION IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 5510/2015
(Arising out of impugned final judgment and order dated 03/02/2014 in MFA No. 6229/2012 passed by the High Court Of Karnataka At Bangalore)
SRIVATSA & ANOTHER

Petitioner(s)

VERSUS

A.H. SHARADA

Respondent(s)

(With interim relief and office report)

Date : 27/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Ms. Pritha Srikumar Iyer, AOR
Mr. Abhinav Ramanand, Adv.
Ms. Neha Mathen, Adv.

For Respondent(s) Mr. S. N. Bhat, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The order passed by the High Court is set aside and the appeal is allowed, however, with costs awarded at Rs.10,000/- in terms of the signed order .

(R. NATARAJAN) (SNEH LATA SHARMA)
Court Master Court Master
(Signed order is placed on the file)