

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.R.P.No.3264 of 2015

Date : 01-10-2015

Between:

South Central Railway,

Represented by its General Manager,

Rail Nilayam, Secunderabad JCJC ... Petitioners

and others

And

Kurapati Kantha Kumari @ Santha Kumari (died)

and another ... Respondent

Counsel for petitioners : Smt. N. Sasikala

Counsel for respondent : --

The Court made the following :

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ORDER:

This Civil Revision Petition arises out of order dated 29-12-2014 in I.A.No.827 of 2014 in unnumbered Appeal Suit on the file of the learned Principal District Judge, Guntur.

I have heard Smt. N. Sasikala, learned Standing Counsel for the South Central Railway, and perused the record.

The respondents filed O.S.No.184 of 2009 on the file of the learned Senior Civil Judge, Mangalagiri, for recovery of damages. The said suit was decreed by the trial Court for a sum of Rs.3 lakhs along with interest at the rate of 6% per annum from 4-11-2009 to 4-2-2014. Feeling aggrieved by the said Judgment and decree, the petitioners filed an Appeal before the learned District Judge, Guntur. As there was a delay of 235 days in filing the said Appeal, they have filed I.A.No.827 of 2014 for condonation of the same. By order dated 29-12-2014, the learned District Judge has dismissed the said application.

In their affidavit, the petitioners have averred that the certified copy of the Judgment and decree was made ready on 15-6-2013 and the same was delivered to their counsel on 18-6-2013; that the said certified copy was received by them from their Counsel on 17-7-2013; and that due to administrative delay caused in taking a decision whether to prefer Appeal or not, lot of time was consumed in the main office at Secunderabad.

As rightly observed by the learned District Judge, even if the time of 29 days taken by the Counsel for not handing over the certified copy of the Judgment is excluded, still there was a delay of about seven months in filing the Appeal. The learned Counsel for the petitioner submitted that the petitioners being a public sector undertaking, they deserve a reasonable degree of latitude. Undoubtedly, the State owned organizations are not expected to be as diligent as private litigants are. However, even if a reasonable degree of latitude is shown as pleaded by the learned Counsel for the petitioners, the unexplained delay of more than seven months in filing the Appeal dissuades this Court to accept the plea of the petitioners and condone the delay. Except making a bald statement that considerable time was consumed in taking the decision whether to file the Appeal or not, no details whatsoever have been given as to at which level in the petitioners' hierarchy, the delay has occurred. Even if the petitioners are not liable to explain the day-to-day delay, still, they must satisfy the Court that they have displayed due diligence in pursuing the litigation. From the facts pleaded by the petitioners, such due diligence is not reflected. As the lower Court has exercised the discretion against the petitioners by declining to condone the delay, exercising its revisional jurisdiction under Section 115 CPC, this Court has no reason to interfere with such discretion, which cannot be said to be either unsound or irrational.

For the above mentioned reasons, the Civil Revision Petition fails and the same is accordingly dismissed.

As a sequel to the disposal of the Civil Revision Petition, CRPMP No.

4373 of 2015 is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 01-10-2015

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