

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5807 of 2010

ORDER:

This Revision Petition is filed by the petitioner challenging the Order dt.23-07-2010 in I.A.No.776 of 2006 in I.A.No.516 of 1999 in O.P.No.1210 of 1999 of the I Additional District Judge, Ranga Reddy District.

2. Petitioner herein is the claimant in the O.P. Since he did not appear in the O.P., it was dismissed on 08-02-1999. He filed I.A.No.516 of 1999 on 06-03-1999 under Order 9 Rule 9 CPC to restore the said O.P. It was posted to 02-08-1999 for service of notice on the respondents. On that day, there was no representation on behalf of the petitioner or his counsel. So I.A.No.516 of 1999 was also dismissed for non-prosecution.
3. Thereafter, almost six years later, I.A.No.776 of 2006 was filed under Section 5 of the Limitation Act, 1963 to condone the delay of 2279 days in seeking restoration of I.A.No.516 of 1999 by the petitioner. In the affidavit filed in support of this application, the petitioner stated that he had suffered another road accident and so could not contact his counsel.
4. By Order dt.23-07-2010, I.A.No.776 of 2006 was also dismissed. The Court below held that the petitioner had not mentioned the nature of illness allegedly suffered by him that compelled him not to pursue this case from the year 1999 till the date of filing the present I.A. almost six years later. It held that the petitioner did not state as to when he met with the later accident or other particulars thereto. It further held that no iota of evidence had been let in to explain the delay by the petitioner.

5. Questioning the same, this Revision Petition is filed.
6. Learned counsel for the petitioner contends that the respondents have been set *ex parte* and the Motor Vehicles Act, 1988 being beneficial piece of legislation, delay in filing application to restore I.A.No.516 of 1999, should be condoned.
7. The facts narrated above indicate total negligence on the part of the petitioner in pursuing the O.P. On 08-02-1999, O.P. was dismissed because he did not appear. He filed I.A.No.516 of 1999 to restore the O.P. But again he or his counsel did not appear on 02-08-1999 when it was listed and so it was also dismissed. Thereafter, six years later, the present application has been filed to restore I.A.No.516 of 1999. It is not the case of the petitioner that he had no family member or means to contact his advocate and prosecute the I.A. and the O.P.
8. Having regard to the negligence conduct of the petitioner, I am of the opinion that the Court below has rightly dismissed I.A.No.776 of 2006. Merely because the Motor Vehicles Act, 1988 is a legislation to aid the victims of accidents that does not mean that parties in the O.P. can come to Court whenever they please and seek indulgence of the Court for condonation of delay. There is no evidence adduced by the petitioner as to the illness he suffered in 1999 or about the subsequent accident which he is alleged to have suffered to disable him from attending on 02-08-1999
9. In this view of the matter, I do not find any merit in the Civil Revision Petition and the same is accordingly dismissed. No

costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05-06-2015

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