

HONOURABLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No. 902 OF 2014

Date: 01.04.2015

Between:-

Dudala Venkata Seshamma,

Ongole and another

... Petitioners

And

Sivaraju Prabhakar Rao,

Ongole and another.

... Respondents

This Court made the following:-

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ORDER:

The petitioners are defendants in O.S.No.813 of 2004 on the file of the Principal Junior Civil Judge, Ongole. The said suit for perpetual injunction was decreed *ex parte* against the petitioners on 27.06.2006, as written statement was also not filed by them. The petitioners, thereafter, filed I.A.No.2559 of 2006 to condone the delay of 130 days for filing petition under Order IX Rule 13 C.P.C to set

aside the *ex parte* decree. The reasons given by the petitioners for condonation of delay are that the father of the first petitioner suffered serious injury to his leg and he was curtailed to bed for long time, and therefore, she could not go over to Ongole and instruct his Advocate for filing written statement. The Court below dismissed the said Interlocutory Application through the impugned order. Aggrieved by the same, the petitioners filed this Civil Revision Petition.

I have heard the learned counsel for the petitioners and the learned counsel for the respondents.

Though the petitioners supported the medical ailment by Ex.P.1 – Medical Certificate, their conduct show that even at the time of filing the Interlocutory Application to set aside the *ex parte* decree, the written statement was not filed by them. The present Interlocutory Application filed in the Year 2006 came to be decided only on 22.01.2014. Even as on today, there is no written statement on the part of the petitioners, which clearly shows that the contest sought to be made by the petitioners is only make believe and not worthwhile. The discretion exercised by the Court below, therefore, does not deserve to be interfered with, in the revisional jurisdiction of this Court.

The Civil Revision Petition is accordingly dismissed.

Miscellaneous applications, if any, shall also stand dismissed. No order as to costs.

VILAS V. AFZULPURKAR, J

Date: 01.04.2015

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HONOURABLE SRI JUSTICE VILAS V.AFZULPURKAR

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