

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2784 of 2015

ORDER:

Aggrieved by an order dated 22.01.2015, passed in E.A.No.46 of 2013 in E.P.No.16 of 2013 in O.S.No.67 of 2009 on the file of the Senior Civil Judge, Sircilla, wherein and whereunder an application filed under Order 21 Rule 106 of the Civil Procedure Code (C.P.C.) to set aside the order dated 20.11.2013 in E.P.No.16 of 2013 wherein the right to file counter was forfeited, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

It is to be noted that on receiving notice in the E.P., the judgment debtor/petitioner herein engaged an advocate, but could not file his counter within the stipulated time, as he was engaged in his agricultural operations. The material on record would show that the judgment debtor filed I.A.Nos.922 and 923 of 2014 in O.S.No.67 of 2009 for condonation of delay of 724 days and to set aside the *ex-parte* decree. The Court below, dismissed the two applications holding that the judgment debtor failed to show sufficient cause for the inordinate delay of 724 days in filing the petitions. It is to be seen that the judgment debtor engaged an advocate, filed written statement, received the notice issued by the lower Court, but could not make his appearance as a result of which, the suit stood decreed *ex-parte*. Thereupon, the decree holders moved E.P.No.16 of 2013 for execution of the decree. In the E.P. also, the judgment debtor engaged an advocate, but did not file his

counter till 20.11.2013. He choose to move a petition on 18.09.2014 only, stating that he was engaged in agricultural works, though his right to file counter was forfeited on 20.11.2013. Immediately thereafter, the petitioner filed E.A.No.46 of 2013 to set aside the *ex-parte* order dated 20.11.2013, forfeiting his right to file counter in the said E.P. and the said E.A. was dismissed. Thereafter, the present Civil Revision Petition is filed.

At the time when the matter is taken up for hearing, learned counsel for the petitioner submits that the main proceedings in the E.P. itself are completed.

In view of the above, this Court is of the view that the question of passing orders in the said E.A. does not arise.

Hence, the Civil Revision Petition is dismissed, leaving it open to the petitioner to challenge the order passed in E.P.No.16 of 2013, including the objections raised in this application. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

C. PRAVEEN KUMAR, J

21.08.2015

vhb