

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 1628 of 2015

ORDER:

The petitioners are the defendants in O.S.No.473 of 2013 on the file of II Additional District Judge at L.B.Nagar. The said suit was filed by the first respondent herein seeking declaration of title and for consequential permanent injunction. The petitioners were set *ex parte* and an *ex parte* decree was passed on 31.12.2013. The petitioners claimed that they were living in the suit schedule property and they purchased the same from the joint family funds. They filed an application in I.A.No.1935 of 2014 seeking condonation of delay of 205 days for setting aside the *ex parte* decree dt. 31.12.2013 stating that their failure to appear in the case is neither intentional nor wanton.

The said application was opposed by the plaintiff stating that the petitioners appeared through Advocate on 8.06.2013 and sought time for filing Written Statement. On the request of petitioners, the matter was adjourned to 19.07.2013 and on that day when they failed to file Written Statement and changed their advocate also, further time was granted and the matter was adjourned to 18.09.2013 and on that day also, they did not file Written Statement. In those circumstances, they were set *ex parte* and the *ex parte* evidence was recorded on 19.11.2013. The arguments were heard on 16.12.2013 and an *ex parte* decree was passed on 31.12.2013. He filed E.P.No.55 of 2014 and the present application was filed without giving proper reasons for condonation of delay.

The trial Court dismissed the application, by Order dt. 12.03.2015, on the ground that they have not satisfied the Court with regard to sufficient cause for remaining absent after engaging an Advocate. The trial Court also observed that it is a clear case of misuse of process of law.

Though this Court is in agreement with the Order passed by the

trial Court, since this is a suit for declaration of title, in order to give one more chance to the petitioners to contest the case on merits, I.A.No.1935 of 2014 can be allowed on payment of costs of Rs.3000/- (Rupees Three Thousand only) to the counsel appearing for the plaintiff within a period of 15 days from the date of receipt of a copy of this Order.

Accordingly, this Civil Revision Petition is allowed. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 10.02.2016

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