

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
CIVIL REVISION PETITION No.3347 of 2015

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21.08.2015

Between:

Mariga Margaret

...Petitioner

And

Danaboina Krishna Sai Babu

...Respondent

Counsel for the petitioner: Mr.N.M.Krishnaiah

Counsel for the respondent: --

The Court made the following:

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ORDER:

This civil revision petition arises out of order, dated 19.01.2015, in I.A.No.556 of 2014 in O.S.No.146 of 2010 on the file of XI Additional District and Sessions Judge, Tenali.

I have heard Mr.N.M.Krishnaiah, learned counsel for the petitioner, and perused the record.

The respondent filed the aforementioned suit for specific performance of an agreement of sale against the petitioner. As the suit notice could not be served on the petitioner, the respondent has taken out notice through substitute service viz., by publication of notice in the newspapers. After publication, the petitioner failed to enter appearance, as a result of which, the suit was decreed *ex parte* on 20.03.2012. Thereafter, the petitioner has filed an application under Order IX Rule 13 C.P.C. for setting aside the *ex parte* decree. She has also filed I.A.No.556 of 2014 under Section 5 of the Limitation Act, 1963, for condonation of delay of 740 days in filing the application under Order IX Rule 13 C.P.C. This application was resisted by the respondent by filing a counter-affidavit. By the order under revision, the lower Court dismissed the said application.

At the hearing, the learned counsel for the petitioner strenuously submitted that as his client has left the house to which the suit notices were sent, she had no knowledge of the filing of the suit. However, in both the affidavits filed in support of I.A.No.556 of 2014 and also the I.A. filed under Order IX Rule 13 C.P.C., the petitioner has made a categorical statement that she has been living in the same address to which the notices were sent as the same is her own house. Therefore, the submission of the learned counsel for the petitioner that his client has no knowledge of the filing of the suit as she was residing elsewhere is in the teeth of the petitioner's own admission. Moreover, the lower Court has rendered a finding that in pursuance of the *ex parte* decree, the same was executed by way of execution of sale deed by the Court and that nothing much has left in the suit itself.

In the above facts and circumstances of the case, I do not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of the Civil Revision Petition, C.R.P.M.P.No.4489 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

21st August, 2015
GHN