

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE

CIVIL REVISION PETITION No. 2052 of 2013

P.C:

Heard learned counsel for the parties.

This C.R.P. is against the order, dated 16.03.2009, passed by the Chief Judge, City Civil Court, Hyderabad on I.A.No.2211 of 2008 in C.M.A (SR) No.12187 of 2008, whereby the petitioners' prayer for condoning 65 days delay caused in filing the appeal (C.M.A (SR) No.12187 of 2008) came to be rejected.

The C.M.A. was directed against the order, dated 12.11.2007, whereby petitioners' application for restoration of suit to file was rejected. Petitioners are the plaintiffs in O.S.No.1124 of 1991, which was dismissed for default on 07.09.2006. It has come on record that the suit was kept for hearing on 06.09.2006 and since it was declared a holiday, all the matters were adjourned to 07.09.2006. On that date, since there was heavy pressure on the Court, petitioners Advocate failed to represent the matter when it was called out. He, therefore, filed application for restoration of the suit on 08.09.2006 and that application was rejected by order, dated 12.11.2007, which was the subject matter of C.M.A (SR) No.12187 of 2008 and that there was 65 days delay in filing the said appeal.

The suit is filed by the petitioners for declaration that the plot of land was allotted to the deceased husband of petitioner No.1-Smt.Mahaboob Bee by the Commissioner of Labour, Government of A.P., and that after the death of her husband, all the petitioners being his legal representatives have acquired

ownership thereof. As against this, respondent No.1, who is the son of petitioner No.1, claims exclusive ownership over the plot that was allotted by the Commissioner of Labour . According to him, the plot was allotted to him exclusively and that the petitioners have no right, title and interest in the same.

It is not in dispute that all the petitioners are in possession of the property in dispute. It has also come on record that after dismissal of the suit for default in 2006, respondent No.1 has filed a civil suit, being O.S.No.155 of 2008 for recovery of possession of the property and that the suit is also pending.

Keeping that all in view and having considered overall facts and circumstances of the case, in my opinion, the order impugned in the present C.R.P. deserves to be set aside.

Order accordingly, subject to payment of costs of Rs.3,000/- to be paid to respondent No.1 by the petitioners within a period of two weeks from today. Before parting, I observe that if C.M.A (SR) No.12187 of 2008 filed by the petitioners is allowed, the trial Court shall dispose of the suit expeditiously.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B.BHOSALE,J

Dt:13.02.2015
kdl

