

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.4086 OF 2013

DATED 20th MARCH, 2015

Between:

K. Jagan Mohan Reddy and others .. Petitioners

and

Karra Ahalya .. Respondent

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.4086 OF 2013

ORDER

This Civil Revision Petition arises out of the order dated 20.08.2013 passed by the learned Principal Junior Civil Judge, Warangal, dismissing I.A.No.1008 of 2013 in O.S.No.722 of 2009. The petitioners are the defendants in the said suit, who filed the subject I.A. under Section 5 of the Limitation Act, 1963 seeking condonation of the delay of 1095 days in filing a petition to set aside the *ex parte* decree dated 24.07.2010 passed in the suit.

The Court below found that after decretal of the suit on 24.07.2010, the Decree-Holder/plaintiff filed E.P.No.406 of 2010 for execution thereof. Despite contesting the execution proceedings, the Judgment-Debtors/defendants failed to present an application for setting aside the *ex parte* decree immediately thereafter and the delay in this regard was to the tune of nearly three years. The Court below further found that sufficient reasons had not been put forth for explaining this delay.

Sri T. Koteshwara Prasad, learned counsel for the petitioners/defendants, fairly conceded that his clients entered appearance in the execution proceedings as long back as in the year 2011 and was at a loss to explain as to why they did not choose to take steps for seeking the setting aside of the *ex parte* decree till July, 2013. No doubt, the defendants filed an application under Section 47 CPC independently attacking the *ex parte* decree but that by itself did not account for or explain the long delay in approaching the Court to set aside the *ex parte* decree. Though the Court would normally be liberal in dealing with condone-delay petitions in cases involving *ex parte* decrees,

there must at least be a valid explanation for the delay. In the present case, not even a token explanation was put forth to explain the long delay. In the absence of sufficient cause being shown for the delay, the Court would have no option but to reject the application for condonation of delay (**AMALENDU KUMAR BERA V/s. STATE OF WEST BENGAL**^[1], **BASAWARAJ V/s. SPECIAL LAND ACQUISITION OFFICER**^[2], **BRIJESH KUMAR V/s. STATE OF HARYANA**^[3] and **MANOHARAN V/s. SIVARAJAN**^[4]). This Court therefore finds no lapse or irregularity having been committed by the Court below in dealing with the subject I.A.

The CRP is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

20th MARCH, 2015

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^[1] (2013) 4 Supreme Court Cases 52

^[2] 2014 (1) ALD 33 (SC)

^[3] 2014 (4) ALD 1 (SC)

^[4] 2014 (2) ALT 6 (SC)