

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

CIVIL REVISION PETITION No.3761 of 2015

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Between:

Kurra Ramamohana Rao

...Petitioner

and

Kurra Bharathi and others

...Respondents

DATE OF JUDGMENT PRONOUNCED: 11.09.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment
may be marked to Law Reporters/Journals? Yes/No

3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? Yes/No

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.3761 of 2015

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Kurra Ramamohana Rao

...Petitioner

and

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...Respondents

COUNSEL FOR THE PETITIONER : SRI M.DAMODAR REDDY

COUNSEL FOR THE RESPONDENTS : NONE APPEARS

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.3761 of 2015

ORDER:

This Civil Revision Petition arises out of order, dated 21.08.2015 in I.A.No.389 of 2009 in O.S.No.652 of 2006 on the file of the learned I Additional Junior Civil Judge, Tenali.

Respondents 1 to 4 filed the above-mentioned suit for partition and separate possession. After filing the written statement, the petitioner and respondent No.5 have failed to participate in the suit proceedings. In view of the same, they were set *ex parte* and an *ex parte* decree was passed on 16.10.2008. They filed an application under Order IX Rule 13 CPC for setting aside the *ex parte* decree. As there was a delay of 265 days in filing the application, they have filed I.A.No.389 of 2009 for condoning the delay in filing the application for setting aside the *ex parte* decree. By the order under revision, the lower Court has dismissed the said application.

A perusal of the record shows that the only reason given by the petitioners in the affidavit filed in support of the application for condoning the delay was that the advocate's clerk suffered heart attack in September, 2008 and he was bedridden, as a result of which, they were not informed about posting of the suit. Except the *ipse dixit* of the petitioners, no medical evidence is filed in support of the plea that advocate's clerk has suffered heart attack. Even otherwise, the petitioners being defendants are expected to be diligent in prosecuting their case. The petitioners have miserably failed to show that they have shown any diligence whatsoever in contesting the suit and in filing the application for setting aside the *ex parte* decree. Hence, the Court below has rightly dismissed the application for condonation of delay. Therefore, I do not find any illegality or jurisdictional error in the order of the Court below warranting interference by this Court under

Article 227 of the Constitution of India.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of Civil Revision Petition, CRP.MP.No.5046 of 2015 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

11th SEPTEMBER, 2015.

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