

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

CIVIL REVISION PETITION No.1424 of 2015

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17.04.2015

Between:

G.S.J.Kumar

...Petitioner

And

M/s.V.N.P.Chits and Finance Pvt. Ltd., Hyderabd and others

...Respondents

Counsel for the petitioner: Mr. Kaatrapati Satyanarayana

Counsel for respondents: -

The Court made the following:

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ORDER:

This civil revision petition arises out of the order, dated 23.09.2014 in C.M.A.No.136 of 2012 on the file of learned III Additional District Judge, Ranga Reddy District at L.B.Nagar.

Respondent No.1 filed O.S.No.497 of 2002 on the file of the Principal Junior Civil Judge, Ranga Reddy District, against the petitioner and respondent Nos.2 and 3 for recovery of money. The suit was dismissed for default on 02.01.2007. Respondent No.1 filed I.A.No.653 of 2011 in the suit under Order IX Rule 9 C.P.C. for setting aside the *ex parte* dismissal of the suit and for restoration of the same. As there was delay in filing the said application, respondent No.1 filed I.A.No.1011 of 2011 for condonation of the same. By order, dated 13.04.2011, the trial Court allowed the said application on payment of costs of Rs.5,000/-. In pursuance of the said order, respondent No.1 paid the said costs to the petitioner and respondent Nos.2 and 3. However, the trial Court dismissed I.A.No.653 of 2011 and declined to restore the suit, vide its order, dated 12.07.2012. This order was questioned in C.M.A.No.136 of 2012 by

respondent No.1. The lower appellate Court, vide its order, dated 23.09.2014, allowed the C.M.A.

After hearing the learned counsel for the petitioner, I am of the opinion that the lower appellate Court has not committed any jurisdictional error in allowing the appeal filed by respondent No.1. When the delay in filing the application under Order IX Rule 9 C.P.C. was condoned on payment of costs, the same reasons, which weighed with the trial Court for condonation of delay, should have equally weighed with it while disposing of the application under Order IX Rule 9 C.P.C. Therefore, the lower appellate Court has rightly held that the trial Court has committed an illegality in dismissing the I.A.No.653 of 2015 filed under Order IX Rule 9 C.P.C.

For the aforementioned reasons, I do not find any merit in this Civil Revision Petition and the same is accordingly dismissed.

As a sequel to dismissal of the Civil Revision Petition, C.R.P.M.P.No.1923 of 2015 filed by the petitioner for interim suspension shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

17th April, 2015

GHN