

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.1746 of 2015

ORDER :

This revision petition under Section 115 of the Code of Civil Procedure by the petitioners is directed against the orders dated 18.09.2014, by the learned Senior Civil Judge, Nagarkurnool, passed in I.A.No.389 of 2012 in O.P.No.7 of 1999 filed under Section 5 of the Limitation Act for condonation of delay of 553 days in seeking restoration of the original petition.

2. I have heard the submissions of the learned counsel for petitioners and the learned Government Pleader for Arbitration. I have perused the material record.

3. The facts of the case and submissions on behalf of the petitioners in brief, are as follows :

When the original petition was coming up for enquiry on 24.01.2011 before the trial Court, none of the petitioners appeared before the trial Court, and therefore, their petition was dismissed for default. The petitioners were busy in agricultural operations. Therefore, they could not contact their counsel at the time when the OP was dismissed for default. They could not also seek restoration within the time allowed under law; and, the delay in seeking restoration had occasioned for the same reason.

4. The trial Court had dismissed the application even though no counter is reported by the Government. Therefore, the petitioners are before this Court.

5. The learned counsel for the petitioners would submit that the matter relates to determination of just and fair compensation for the land, which was acquired and that the Legislation is a beneficial Legislation and that for technical reasons, the petitioners shall not be deprived of the legitimate compensation that is due to them; therefore, the trial Court ought to have given them an opportunity by condoning the delay.

6. The learned Government Pleader would submit that the delay is inordinate and that despite granting sufficient opportunities, the petitioners did not get ready in the matter, and that, therefore, the trial Court had rightly dismissed the O.P. for default.

7. Having regard to the submissions and in view of the further fact that the petitioners are contending that their valuable land was acquired and that they are entitled to legitimate compensation, in the well considered view of this Court, technical reasons shall not come in the way of substantial justice. Therefore, this Court finds that this is a fit case to condone the delay.

8. In the result, the petition is allowed subject to the condition that on restoration of the original petition, the petitioners shall not be eligible for claiming interest for the period from 24.01.2011 i.e. the date of dismissal of the OP till the date of its restoration. The trial Court now shall take up the application for restoration and dispose of the said application as expeditiously as possible, preferably within one month from the date of communication or receipt of a copy of this order, whichever is earlier. No costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

M.SEETHARAMA MURTI, J

16th February 2016

ajr