

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.2924 of 2010

ORDER:

1. The petitioner herein filed I.P.No.17 of 2005 on the file of the Senior Civil Judge, Kavali. The said petition was dismissed for default on 07.08.2007. After dismissal of the said petition, he filed I.A.No.476 of 2008 seeking condonation of delay of 227 days in filing the petition for setting aside the dismissal order with the following averments:

“It is submitted that the above matter was posted on 07.08.2007 for my side evidence. Some of the respondents filed counters. On that day, my wife was attacked with paralysis and she was taken to Hyderabad for treatment. Thereafter, he brought his wife to his village and on account of his wife’s serious ill-health, his mind was disturbed and he could not attend the Court. He learnt that the case was dismissed for default. His advocate was held up in another case in Additional Judicial Magistrate of First Class, Kavali. There is no willful default either my side or my advocate. I am having a good chance to win the case”.

2. The aforesaid application was dismissed by the learned Senior Civil Judge, Kavali, holding as follows:

“Petitioner herein is the petitioner in I.P.No.17 of 2005, while the respondents herein are the respondents. The petitioner filed I.P.No.17 of 2005 under Section 10 of P.I. Act showing as many as 22 respondents seeking to declare him as an insolvent. The docket would reveal that while the matter is coming on for enquiry on

07.08.2007, the petitioner herein did not present nor there was any representation on his behalf. As such this Court dismissed the petition for default. On the said date (07.08.2007) long after the dismissal of the petition, the petitioner came up with this petition seeking to condone the delay of 227 days in filing the petition seeking to set aside the dismissal order. The ground put forth by him is that his wife is suffering from paralysis and that he took her to Hyderabad. Though, the petitioner along with this application filed a medical certificate, this Court is not prepared to give any weight as the said certificate was obtained just prior to filing of this petition. The explanation put forth by the petitioner seeking to condone the delay is not convincing. Accordingly, this petition is dismissed.”

3. This Court carefully perused the affidavit filed in support of the application and noticed that the affidavit does not contain any details with regard to taking of his wife for treatment to Hyderabad. Though the petitioner filed a medical certificate, it was disbelieved by the trial Court on the ground that it was obtained prior to filing of the petition. There is no reference to such medical certificate in the affidavit filed in support of the petition. Even in the present revision also, the petitioner has not taken steps to serve notice on respondent Nos.3, 14 and 19 in spite of giving an opportunity. In the circumstances, this Court sees no ground to interfere with the order passed by the trial Court.

4. The Civil Revision Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

17-09-2016

Gsn

