

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.2750 OF 2016

ORDER :

This Revision is filed challenging the order dt.02.12.2015 in EA.No.570 of 2014 in EA.No.202 of 2012 in EP.No.297 of 2007 in O.P.No.42 of 1987 of the Additional Senior Civil Judge, Eluru.

2. The 19th respondent allegedly acquired the petitioner's property and passed award under the provisions of Land Acquisition Act, 1894 on 27.03.1985. Petitioner alleges that 19th respondent wrongly showed the entire property of

Ac.1-77 cents as owned by the 4th respondent, though the petitioner had half share therein.

3. Petitioner contends that he objected to the above action on the part of the 19th respondent and requested the 19th respondent to add petitioner's name in the award and that there was a compromise between himself and his brother before elders, where the petitioner's brother admitted that the petitioner is the owner of Ac.1-77 cents, but the Government (19th respondent) failed to deposit the award amount.

4. Petitioner contends that petitioner's brother filed E.P.No.297 of 2007 claiming compensation, but the petitioner is the actual lawful owner of the property; therefore the petitioner filed application under Order XXI Rule 54 CPC

(EA.No.202 of 2012), but the said application was dismissed on 19.07.2013.

5. Petitioner asserts that he could not attend the Court on that day since he was suffering from Jaundice and was taking rest at home. He also stated that he was taking country treatment and therefore he did not produce any medical certificate in support of this plea.

6. He therefore filed EA.No.570 of 2014 on 20.08.2014, one year after the expiry of the one month period from the date when EA.No.202 of 2012 was dismissed on 17.07.2013, and sought for condonation of delay in filing the application to restore E.A.No.202 of 2012 on the same grounds.

7. Counter affidavit was filed by respondents 12 to 18 opposing this application and contending that they filed EP for recovery of compensation under the Land Acquisition Act, 1894 by way of attachment of movables of District Collector, West Godavari, Eluru; that petitioner filed EA.No.202 of 2012 under Order XXI Rule 58 CPC even though he had no right, interest or title over the movables of the District Collector, West Godavari, Eluru; that this was being done only to protract the EP proceedings; no medical record is filed to prove the alleged ill health of the petitioner, and therefore the application has to be rejected.

8. By order dt.02.12.2015, the Court below dismissed the

said application. It held that petitioner did not file any document in support of his plea that he was taking treatment for Jaundice and therefore his plea cannot be believed on the basis of oral assertion.

9. Aggrieved by the same, this Revision is filed.

10. Although counsel for the petitioner sought to assail the order dt.02.12.2015 on the ground that the petitioner was suffering from ill health and that liberal approach should be adopted when valuable rights of parties are being affected, I am not inclined to accept the said contention for the reason that a person having right ought to be diligent in pursuing his remedy in the Court.

11. Assuming for the sake of argument that the petitioner had been suffered from Jaundice for sometime, it is not a disease of such a nature that the petitioner could claim to be bed ridden for about a year. Without there being any documentary evidence, such as a medical certificate, this plea of the petitioner cannot be accepted. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference of this Court under Article 227 of the Constitution of India.

12. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

13. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

24th June, 2016
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