

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

HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION NO. 5089 OF 2016

Between:

Syed Yakub (died per LRs)

Meharunnissa Begum W/o Late Syed Yakub and one another

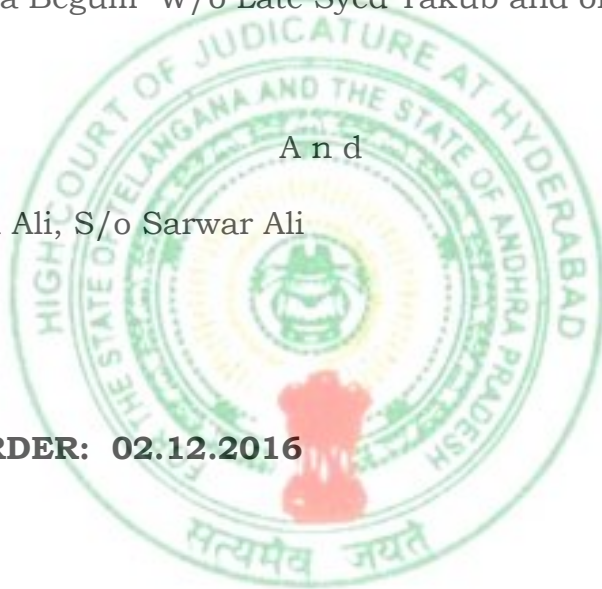
....Petitioners

A n d

Mohd. Amjad Ali, S/o Sarwar Ali

....Respondent

DATE OF ORDER: 02.12.2016



HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION NO. 5089 OF 2016

ORDER:

Petitioners are defendants in O.S.No. 462 of 2006 on the file of II Additional Senior Civil Judge, Warangal. Respondent instituted the above suit for specific performance of agreement of sale of suit schedule property.

2. Facts on record would disclose that the agreement of sale was executed by defendant No. 1. Defendant No. 1 filed written statement and during the pendency of Suit, defendant No. 1 died. Therefore, defendants 2 & 3 were brought on record as legal representatives of defendant No. 1. Defendants 2 & 3 filed adoption memo adopting written statement of the deceased defendant No. 1. It appears on 17.7.2014 counsel representing defendant Nos. 2 & 3 reported no instructions. On 22.7.2014 defendants were called absent and right of cross-examination of PW-1 was forfeited. *Ex-parte* decree was passed on 10.9.2014 and after the decree was passed, decree holder issued legal notice. Since the decree was not complied insptie of legal notice EP was filed. Notices were served on the petitioners in EP. Petitioners entered appearance and opposed the EP. Orders were passed for execution of sale deed on 26.3.2015. During all these days, no

steps were taken to file an application for setting aside the *ex-parte* decree.

3. Having regard to these facts and on an elaborate consideration of the contentions on behalf of the petitioners, by relying on the precedent decisions, the Court below held that application for condonation of delay in filing application to set aside the *ex-parte* decree was not made in bonafide prosecution of genuine grievance and dismissed the petition.

4. Learned counsel for the petitioner made extensive submissions and also pleaded that some sympathy may be shown since valuable property is being knocked away by the plaintiff.

5. Learned counsel representing the respondent/plaintiff informs the Court that the plaintiff has already taken the possession of the said property and if prayer as sought for is granted at this stage, it would cause grave prejudice to the plaintiff.

6. As discussed by the trial Court in detail in the order under revision, it is apparent that the petitioners were negligent in prosecuting the litigation though they were given sufficient opportunity. They have not contested the suit voluntarily. Even after filing of EP they did not take steps to set aside the *ex-parte* decree.

7. Except pleading to show some sympathy, no other point is urged. In the facts of the case petitioners do not deserve any consideration and in this case clock cannot be put back. Therefore, I see no error in the decision arrived at by the Court below warranting interference of this Court.

8. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

P. NAVEEN RAO, J

Date: 02.12.2016
KA

