

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.210 of 2010

ORDER:

Heard the learned counsel for the petitioner.

2. This Civil Revision Petition is filed challenging the order dt.31-12-2009 in I.A.No.1264 of 2009 in MVOP No.350 of 2005 of the I Additional Chief Judge, City Civil Court, Secunderabad.

3. The 1st respondent filed MVOP No.350 of 2005 against the petitioner seeking compensation of Rs.1,50,000/- for the injuries suffered by 1st respondent in a motor vehicle accident which took place on 18-01-2005 near Reddy Wines, West Marredpally Main Road, Secunderabad.

4. Though summons in the O.P. were served on the petitioner, petitioner did not choose to contest. Therefore, on 05-09-2006, the said O.P. was allowed awarding compensation of Rs.60,000/- with proportionate costs and future interest at 7.5% per annum from the date of petition till deposit and the petitioner as well as 2nd respondent were held jointly and severally liable to discharge the same.

5. The petitioner kept quiet till June 2009 and filed an application under Order 9 Rule 13 CPC to set aside the said *ex parte* decree.

6. Petitioner also filed an application in I.A.No.1264 of 2009 under Section 5 of the Limitation Act, 1963 to condone the delay of 1003 days in setting aside the *ex parte* decree.

7. In the affidavit filed in support of the said application, the petitioner admitted that summons were served on its office in the MVOP, but they were misplaced. It however pleaded that it had no knowledge about the *ex parte* decree in the O.P. It stated that notices in the E.P.No.30 of 2008 filed by 1st respondent before the II Additional Chief Judge, City Civil Courts, Hyderabad were received but no action was taken thereon since they were also misplaced and there was a shifting of the petitioner-office from Khairatabad to Begumpet. Certain contentions on merits on the question of liability were also raised.

8. This application was opposed by 1st respondent who contended that there is negligence on the part of the petitioner in filing the application for setting aside the *ex parte* decree and therefore the delay in filing the same ought not to be condoned.

9. By order dt.31-12-2009, the I Additional Chief Judge, City Civil Courts, Secunderabad dismissed the said application. The Court observed that the petitioner had been set *ex parte* on 31-08-2006 and an *ex parte* decree was passed on 05-09-2006. It held that the petitioner, having admitted to have received the summons in the main O.P., ought to have contested the case on merits and cannot

sleep over for a period of 1003 days and the said delay cannot be condoned.

10. Though the learned counsel for the petitioner sought to contend that the delay in filing the application for setting aside the *ex parte* decree passed by the trial Court is liable to be condoned, I am unable to agree with the said submission. The petitioner is a public sector undertaking and it has acted in a very casual way in not contesting the O.P. in spite of receiving the summons in the O.P. The petitioner therefore cannot be allowed to take advantage its own wrong.

11. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Section 115 CPC.

12. Accordingly, the Civil Revision Petition is dismissed.
No costs.

13. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-10-2016
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