

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 2763 of 2015

ORDER:

The petitioners are the defendants in O.S.No.42 of 2007 on the file of Junior Civil Judge, Narayanpet. The respondent herein filed the said suit seeking declaration of title and injunction against the petitioners herein. During pendency of the suit, the first defendant died. Consequent to the death of first defendant, the suit itself was dismissed as abated by Order dt. 20.11.2009 even though the other defendants were there in the suit. In those circumstances, the plaintiff filed I.A.No.75 of 2011 seeking condonation of delay of 747 days to set aside the abatement caused on 20.11.2009. When that application was allowed by Order dt. 23.06.2014, the present Civil Revision Petition was filed.

The trial Court observed that the suit was dismissed on the ground that there was only one defendant and in those circumstances only the suit was declared to have been abated. The application was allowed with the following observations:

“ On perusal of case record and docket proceedings in this case, it is observed that the Hon'ble Court endorsed on the docket vide dt. 20.11.09 as “ it is reported that sole defendant died on 18.04.09 and so far steps not filed. Hence the suit abates against the defendant. No costs.” It is clear from the docket proceedings that the Court was under impression there was only one defendant and due to the failure of the petitioner for not taking steps to bring the LRs of respondent No.1, the suit was abated. Further, it shows that the respondent Nos.2 and 3 nor their counsel had made any representation before the Hon'ble Court to elicit that the suit was filed against respondent Nos. 1 to 3 and only respondent No.1 was died and they have not made any attempts to bring the same to the notice of this Court till this petition was filed. Further, as mentioned in counter filed the respondent No.2 and 3, it is clear that taking advantage of the order the respondents had completed construction over the suit land due to which the petitioner came to know about the fate of the suit filed by him against the respondents.

In the light of the above discussions, it is observed that the petitioner nor his counsel were aware of the abating order of this Court and they were under impression that the suit is still pending, hence they failed to file this petition within the stipulated time for setting aside the abatement order and the petitioner had shown reasonable and sufficient cause for the delay of 747 days to the satisfaction of this Court. In the result, the petition is allowed“.

This Court feels that in view of the reasons given in the said Order, it does not warrant inference of this Court.

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

A.RAMALINGESWARA RAO, J

Date: 10.02.2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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