

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1260 OF 2016

ORDER :

Heard Sri Nimmagadda Satyanarayana, counsel for the petitioners and Sri K.V.L.Narasimha Rao, Counsel for sole respondent.

2. This Civil Revision Petition is filed challenging the order dt.15.12.2015 in I.A.No1132 of 2015 in O.S.No.155 of 2012 of the Additional Senior Civil Judge, Eluru.

3. Petitioners are defendants in the above suit. Respondent filed the said suit for recovery of money against the petitioners. Since the defendants did not appear, they were set ex parte and ex parte decree was passed on 06.12.2012.

4. On 23.06.2015 I.A.No.1132 of 2015 was filed by the petitioners under Section 5 of the Limitation Act, 1963 to condone the delay of 921 days in filing the application to set aside the ex parte decree dt.06.12.2012 in the suit along with a separate application under Order IX Rule 13 CPC.

5. In the affidavit filed in support of the application I.A.No.32 of 2015, the only ground raised by the petitioners was that they did not receive summons either from the respondent or from the Court and that the certified copy of the summons was alleged to have affixed on the door of the 1st petitioner, but no

such affixture was made.

6. Counter affidavit was filed by the respondent opposing this application.

7. By order dt.15.12.2015 the Court below rejected the said application. It stated that summons were noted to have been served on the petitioner on the docket dt.27.06.2012 and there is also a note mentioned by the Office of the Court below that notices sent by Registered Post to the petitioners were refused.

8. Challenging the same, this Revision is filed.

9. Though counsel for the petitioners sought to contend that summons in the suit were not proved to have been served on the petitioners, the findings of the Court below that notices sent by registered post were refused, has not been denied by placing any material before this Court.

10. Since the petitioners did not appear in spite of service of summons by Registered Post and contest the matter, the Court below had rightly rejected the application for condonation of inordinate delay of 921 days in filing the application to set aside the ex parte decree. I therefore do not find any error of jurisdiction in the order of the Court below warranting interference by this Court under Article 227 of the Constitution of India.

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

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

M.S. RAMACHANDRA RAO, J

24th June, 2016
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