

THE HON'BLE SRI JUSTICE S.V.BHATT

Civil Revision Petition No.828 of 2016

ORDER :

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The respondent Nos.1 to 3 in I.A.No.122 of 2015 in O.S.No.NIL of 2015 are revision petitioners. Respondent Nos.1 to 3 herein have filed the instant suit and the suit was returned for re-presentation with a few office objections. The suit is re-presented with a delay of 575 days and hence Respondent Nos.1 to 3 herein filed I.A.No.122 of 2015 to condone the delay of 575 days in re-presenting the suit. The learned trial Judge has taken note of the averments made in support of I.A.No.122 of 2015 and also the other circumstances and exercised his discretion to condone the delay in re-representation by imposing costs of Rs.575/- payable to the revision petitioners. Hence, the revision.

The learned counsel for revision petitioners contends that the learned trial Judge committed serious illegality and irregularity in exercising his jurisdiction to condone the enormous delay of 575 days in re-presenting the O.S.SR. According to him, the affidavit filed in support of the present application does not inspire confidence of the Court to condone the delay and I.A. ought to have been dismissed.

I have perused the material available on record and noted the contentions of the learned counsel for petitioners.

Respondent Nos.1 to 3 herein filed I.A.No.122 of 2015

and the averments in support of their prayer for condonation of delay are that the instant suit is filed for specific performance of suit agreement dated 03-08-2012. O.S.SR. was returned with an Office Objection to re-present the suit by filing certified copy of agreement of sale dated 16-09-2009. According to Respondent Nos.1 to 3 herein, the said agreement was filed in O.S.No.353 of 2011, filed by third revision petitioner. With the dismissal of O.S.No.353 of 2011, respondent Nos.1 to 3 herein could get the copy of agreement of sale dated 16-09-2009 and accordingly suit is re-presented.

From the above it is clear that the reason for not re-presenting the suit is the Office Objection, directing Respondent Nos.1 to 3 herein to make available certified copy of agreement of sale dated 16-09-2009. It is not in dispute that in the suit filed by the 3rd revision petitioner the said agreement was marked. Having regard to the fact that the original is already marked in O.S.No.353 of 2011 and as there is no timely action in getting the copy of agreement of sale dated 16-09-2009, the learned trial Judge has put Respondent Nos.1 to 3 herein to costs. In my view a balanced view is taken while accepting the prayer for condonation of 575 days delay in re-presenting O.S.SR. I see no ground to interfere with the order under revision.

Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending in this civil revision petition shall stand disposed of.

**S.V. BHATT,
J.**

Date:22.02.2016

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