

HON'BLE SRI JUSTICE G. SHYAM PRASAD

C.R.P.No.4954 of 2016

ORDER:

The revision petitioners are the defendants. The respondent herein is the plaintiff in O.S.No.48 of 2015 on the file of Junior Civil Judge, Cheepurupalli. The suit O.S.No.48 of 2015 was filed for permanent injunction along with Interlocutory application for temporary injunction. The trial Court had granted temporary injunction and later made it absolute. The revision petitioner being aggrieved by the order passed in the interlocutory application granting injunction has preferred CMA on the file of District Court, Vizianagaram. Said CMA was filed with delay of 169 days and therefore, they filed delay condonation petition and it was dismissed by the District Court. Being aggrieved by the dismissal order of delay condonation petition, this revision is filed.

The point for consideration in this matter is, whether there is sufficient cause to condone the delay in preferring the CMA before District Court?

Heard learned counsel for the revision petitioners and Smt. K.Saraswathi for respondent and perused the order passed by the appellate Court.

Learned counsel for the revision petitioners submits that the revision petitioners were making efforts for settlement of the matter before the elders and due to that, delay of 169 days occurred and the delay was not intentional.

Learned counsel for the respondent submits that the delay is not explained by the revision petitioners properly and delay condonation petition is liable to be dismissed.

On consideration of the affidavit of the petitioners and the averments made in the counter filed in the Interlocutory application, it is obvious that there are some latches on the part of revision petitioners/defendants in prosecuting the suit as well as Interlocutory application. However, the suit is coming up for trial and written statement has been filed. It appears from the affidavit that revision petitioners are trying to settle the matter with the respondent and due to those negotiations before the elders, delay occurred. Therefore, I do not see any valid ground to dismiss the delay condonation application filed by the revision petitioners. But, however, on payment of costs of Rs.2,000/- (Rupees Two Thousand only) payable to the respondent within seven (07) days from the date of receipt of a copy of this order, the I.A. is allowed. Both parties are directed to get ready for trial before the trial Court. The trial Court is directed to dispose of the matter within three months from the date of receipt of a copy of this order.

Accordingly, the Civil Revision Petition is disposed of. In consequence, miscellaneous petitions, if any, pending in this revision shall stand closed.

G. SHYAM PRASAD, J

25-11-2016.

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