

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.168 OF 2016

DATED:22-01-2016

Between:

Tatineni Vijaya Bhaskar Rao ... Petitioner

And

K. Aruna
and another ... Respondents

COUNSEL FOR THE PETITIONER: Mr. P. Nagendra Reddy

COUNSEL FOR RESPONDENT NO.1: -

COUNSEL FOR RESPONDENT NO.2: Mr. G. Ramachandra Rao, for
Mr. G. Pedda Babu

THE COURT MADE THE FOLLOWING:

ORDER:

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This civil revision petition arises out of common order dt.07.06.2013 in I.A. Nos.1155 and 1156 of 2011 in I.A. No.777 of 2010 in I.A. No.556 of 2008 in O.S. No.136 of 2003, on the file of the Senior Civil Judge, Mangalagiri.

I have heard Mr. P. Nagendra Reddy, learned counsel for the petitioner, and Mr. G. Ramachandra Rao, learned counsel, representing Mr. G. Pedda Babu, learned counsel for respondent No.2.

The petitioner has filed the above mentioned suit for specific performance of an agreement of sale of the year 1991. On 23.08.2007 the suit was dismissed for default. The petitioner has filed I.A. No.1095 of 2007 for restoration of the said suit and the said I.A. was renumbered as I.A. No.556 of 2008. The said application was also dismissed for default on 03.03.2010. For restoration of the said application, the petitioner has filed I.A. No.777 of 2010 and the said application was dismissed for non-payment of batta, on 31.12.2010. The petitioner has thereafter filed I.A. No.1155 of 2011 for restoration of I.A. No.777 of 2010. As there was a delay of 73 days in filing the said application, he has also filed I.A. No.1156 of 2011 for condonation of the said delay. Both these applications were dismissed by the lower Court by order dt.07.06.2013.

The facts narrated above would show that in respect of an agreement of sale of the year 1991, the petitioner has filed the suit in the year 2003, i.e., twelve years after the execution of the agreement of sale. Interestingly, it is the pleaded case of respondent No.2 that the petitioner himself has executed an agreement of sale in his favour, and later respondent No.1, who is the original owner, executed a registered sale deed in respect of respondent No.2. This plea does not appear

to be in serious dispute. Even after filing of the suit belatedly, the petitioner failed to evince proper interest in pursuing the same, resulting in dismissal of the suit for default. He has also filed I.A. No.556 of 2008 for restoration of the said suit. Even the said I.A. was also dismissed for default. The petitioner has failed to show diligence in pursuing the subsequent I.A., i.e. I.A. No.777 of 2010 filed for restoration of I.A. No.556 of 2008, by not paying batta. Another interesting aspect is that the petitioner has filed a civil miscellaneous appeal, i.e., C.M.A. No.33 of 2013 before the III Additional District Judge, Guntur, purportedly questioning the order in I.A. No.1156 of 2011, instead of the order in I.A. No.1155 of 2011. The said appeal was dismissed by the learned District Judge, holding that appeal does not lie against an order dismissing the application filed for condonation of delay under Section 5 of the Limitation Act, 1963. Thus, as on today, no appeal against the order in I.A.No.1155 of 2011, is filed by the petitioner. Even if the present revision petition is allowed in favour of the petitioner, the same will not enure to his benefit, as the order in I.A. No.1155 of 2011 remained unchallenged.

In the above facts and circumstances of the case, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.6584 of 2014 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

22-01-2016

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