

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.4676 of 2016

Date: 30.09.2016

Between:

Classic Farms and Resorts rep. by its partner
Sri Makena Venkata Papayya Patrudu and 2 others

.. Petitioners

and

Karagani Kannayya and 10 others

.. Respondents

Counsel for the petitioners : Mr.Naumene Suraparaj Karlapalem
for SriK.Sarvabhouma Rao

The Court made the following:



Order:

This Civil Revision Petition arises out of Order, dated 01.06.2016, in IA.No.49 of 2016 in OS.No.238 of 2006, on the file of the II Additional Junior Civil Judge, Bheemunipatnam.

I have heard Mr.Naumene Suraparaj Karlapalem, learned Counsel representing Mr.K.Sarvabhuma Rao, learned Counsel for the petitioners, and perused the record.

The suit filed by the petitioners for permanent injunction against the respondents was decreed *ex parte*. The respondents have filed an application for condonation of delay of about 500 days in filing the application under Order IX Rule 13 of the Civil Procedure Code, 1908 (CPC) for setting aside the *ex parte* decree and the same was allowed. For the reasons best known to the petitioners, the said order was not questioned. Consequent upon condonation of the delay, the application filed for setting aside the *ex parte* decree was numbered as IA.No.49 of 2016 and by the order under revision, the lower Court has allowed the same.

A perusal of the order of the lower Court would show that since the suit was decreed *ex parte* and the respondents

intended to contest the suit on merits, it has allowed the application for setting aside the *ex parte* decree. No doubt, the respondents have not assigned convincing reasons for their not contesting the suit, thereby, allowing the same to be decreed *ex parte*. However, having not questioned the order condoning the huge delay in filing the application for setting aside the *ex parte* decree, the petitioners have contested IA.No.49 of 2016. As rightly observed by the lower Court, the intendment of law is to decide the cases on merits rather than on default. On these facts of the case, I find no reason to interfere with the discretion exercised by the lower Court in favour of the respondents.

For the afore-mentioned reasons, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6080 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 30th September, 2016
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