

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

Civil Revision Petition No.2826 of 2016

and

Civil Revision Petition (SR) No.3385 of 2016

Dated 24th June, 2016

Between:

Krothapalli Satya Phaneendra

...Petitioner

And

Rishikesh Marble & Granite Private Ltd., and others

...Respondents

Counsel for the petitioner: Sri D.Rama Krishna

Counsel for respondent No.1: Sri G.Rama Gopal

The Court made the following:

COMMON ORDER:

The petitioner in both these civil revision petitions is common and so are the respondents. These civil revision petitions arise out of common order, dated 30.04.2016, I.A.Nos.627 and 628 of 2015 in O.S.No.30 of 2007, on the file of the learned I Additional District Judge at Visakhapatnam.

Respondent No.1 filed the above-mentioned suit for permanent injunction against respondent Nos.2 to 4. The petitioner has filed I.A.No.1519 of 2007 for his impleadment on the plea that he has purchased the property from respondent Nos.2 to 4/defendants and that one of the issues framed in the suit was related to title of the

defendants. The said application came to be dismissed for default on 21.01.2010. The petitioner filed I.A.No.628 of 2015 for restoration of I.A.No.1529 of 2007. As there was huge delay in filing the said application, he has filed I.A.No.627 of 2015 for condoning the delay of 2092 days. Both these applications having been dismissed by the lower Court, the petitioner filed these revision petitions feeling aggrieved thereby.

I have heard Sri D.Rama Krishna, learned counsel for the petitioner, and perused the record.

In his affidavit, the representative of the petitioner stated that after the implead petition was filed, his father fell sick, that therefore he was forced to shift to Chennai in connection with his father's treatment, that his father expired in 2008, that therefore he was compelled to stay at Mangalagiri, his native place and that therefore he did not visit Visakhapatnam. He has further stated that recently he came to know that his advocate has expired and the implead petition was also dismissed for default on 21.01.2010.

The petitioner has not produced any evidence in support of any of the above-mentioned averments. Even if the explanation of the petitioner is taken on its face value, it does not disclose any justifiable reason for condoning the phenomenal delay of 2092 days. On the petitioner's own showing, by the time the implead petition was dismissed for default, his father died and he had absolutely no reason for not enquiring about the status of the case for two years after the death of his father. The fact that he did not make any enquiry from 2008 till 2015 about the status of the case itself speaks eloquently of the monumental negligence of the petitioner for justifying condonation of huge delay of more than five years. Not only that the petitioner lacked diligence, his conduct borders on high decree of negligence. Therefore, the Court below has very rightly dismissed his application for condonation of huge delay and consequently his application for restoration of I.A.No.1529 of 2007.

For the above-mentioned reasons, I do not find any reason whatsoever to interfere with the orders of the lower Court. Hence, the civil revision petition is dismissed.

As a sequel to dismissal of the CRPs, the pending interlocutory applications shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

24th June, 2016

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