

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.2557 OF 2017

ORDER:

Vide the present petition, the petitioner has assailed the order dated 27.12.2016 passed in I.A.No.1048 of 2016 in O.S.No.209 of 2007 on the file of Principal Junior Civil Judge, Sattenapalli.

2. Vide the aforesaid I.A., the petitioner/plaintiff filed a petition before the Principal Junior Civil Judge, Sattenapalli, under Section 5 of Limitation Act, 1963 praying the Court to condone the delay of 278 days in filing the restoration petition under Order IX rule 9 of C.P.C.

3. The case of the petitioner/plaintiff is that he could not attend the Court on 26.08.2015 due to ill-health. Except the said reason, there is no willful default on his part in not contesting the suit.

4. It is an admitted fact that the petitioner/plaintiff neither filed the medical papers before the trial Court nor before this Court.

5. It is not in dispute that the petitioner/plaintiff filed the suit in the year 2007 seeking the relief of specific performance of agreement of sale dated 13.11.1995. Issues were framed vide order dated 03.04.2010. Since the date of dismissal of the suit, the petitioner/plaintiff did not adduce his evidence.

6. The I.A.No.1048 of 2016 has been filed on 04.07.2015 with a delay of 270 days to restore the suit on to file. The petitioner/plaintiff has given reason for the delay was that due to ill health, he could not file restoration application in time. However, there is no such document filed in support of the I.A., or the present petition. In addition to above, the petitioner/plaintiff has not taken due diligence in prosecuting the case.

7. It is settled law that day today delay has to be explained. However, in the present case, the petitioner/ plaintiff has failed to do so. Moreover, after framing the issues on 03.04.2010, the petitioner/plaintiff has failed to adduce his evidence till 26.08.2014. It seems that the petitioner/plaintiff is dragging the case in the court, wasting public time, and he is not serious to get adjudicated the suit.

8. In view of the above, I find no illegality or perversity in the order passed by the trial court.

9. Finding no merit in the instant petition and the same is accordingly dismissed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date : 07-07-2017
Gvl