

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION NO.3890 OF 2011

ORDER:

Heard learned counsel for petitioner/1st defendant in O.S.No.26 of 2002 on the file of the Senior Civil Judge, Khammam. There was an *ex parte* decree obtained by the 1st respondent/plaintiff. The notice sent returned un-served, now, the counsel says as per the information plaintiff also died. No steps taken to implead LR's.

2. The respondents 2 and 3 are the other defendants. 2nd respondent - one of the defendants among the three also died, as per the notice return endorsement and the 3rd respondent/3rd defendant notice also returned un-served. Even coming to the impugnement of the order of the learned Senior Civil Judge, dated 14.06.2011, in dismissal of the I.A.No.1025 of 2008, which is an application to condone the delay of 907 days in seeking to set aside the *ex parte* decree, a perusal of the order of the lower court is clear that there is no explanation for the delay of 907 days and 1st defendant already filed written statement and later did not choose to participate and in the partition, pursuant to the preliminary decree, there was a final decree also passed by allotment of shares whereunder plaintiff/1st defendant and their father were allotted 1/3rd each and it is with these merits, the court

categorically observed that the delay condonation application of 907 days in seeking to set aside the so-called *ex parte* is nothing but further delay and drag on the proceedings one way or other and not bonafide, much less, for any sufficient cause. Having regard to the above, even on merits, there is nothing to interfere with the impugned order.

3. Accordingly, this civil revision petition is dismissed for all the reasons. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

30.10.2017
SS

DR.B.SIVA SANKARA RAO, J

