

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5265 of 2017

Date 13.10.2017

Between:

Guvvala Venkata Krishna Reddy.

... Petitioner

AND

Guvvala Sankar Reddy.

.....Respondent



HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 5265 of 2017

ORDER:

The order dated 19.07.2017 passed in I.A.No.212 of 2016 in O.S.No.798 of 2010 on the file of I Additional Senior Civil Judge, Nellore, is challenged before this Court.

I.A.No.212 of 2016 has been filed seeking to condone the delay of 55 days in filing the petition under Order 9 Rule 13 CPC. The Court below, while dismissing the I.A, observed as under:

“The averments of the petition show, matter was coming for cross of PW.1 from 21.09.2015 as last chance. As seen from the record, the chief examination of PW.1 was filed on 26.03.2015 and documents were marked on 04.06.2015. Thereafter, the matter underwent for several adjournments of PW.1 due to non-readiness of defendant on 17.05.2015, 25.08.2015 and on 03.09.2015, 11.09.2015. Finally, this Court treated the cross-examination as ‘nil’ on 21.09.2015. That shows the petitioner has given several opportunities to cross-examine the witness. Even after gap of two months, judgment was pronounced. That shows the attitude of the petitioner, the petitioner intentionally wants to drag the matter by taking number of adjournments. This Court granted sufficient time to him from 04.06.2015 till 17.11.2015. The petitioner successfully dragged the matter by taking several adjournments. He waited till the decree is passed. He gave vague statements stating due to ill-health he could not contact his advocate. He did not mention what is the ill-health suffered by him. He did not file medical certificate to show his ill-health. His affidavit is very vague. He came up with present petition to drag the case and to cause delay to the decree holder to enjoy the fruits of the decree. There is no sufficient reason to condone the delay of 56 days. The petitioner failed to explain day to day delay. There are no bona fides on the part of the petitioner. There is no sufficient cause to condone the delay in filing the petition to set aside the decree.”

As can be seen from the above portion extracted from the order of the Court below, the petitioner had failed to explain day to day delay. Apart from that, the evidence of the petitioner was closed as far back as on 17.05.2015; the Court treated the cross-examination as 'nil' on 21.09.2015; and, in the interregnum period, the matter underwent atleast four adjournments. Thereafter the matter was closed on 17.11.2015, on which date there was no representation for the petitioner – defendant.

The suit is a money suit based on a promissory note. It may also be noted that the suit is of the year 2010 and the years passed in the process. The material filed discloses that there is no diligence on the part of the petitioner and, as the delay of 55 days was not explained, the Court below had rightly dismissed the I.A.

In those circumstances, I do not see any reason to interfere with the order of the Court below.

The Civil Revision Petition is accordingly dismissed.

Miscellaneous petitions pending, if any, shall stand disposed of.

CHALLA KODANDA RAM,J

Date:13.10.2017
 usd