

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.5553 of 2010

Date: 10.08.2017

Between:

K. Narsimhulu S/o.Late Sathaiah,
Aged about 57 yrs, Occu : Agriculture,
R/o.H.No.6-15-123, Pawan Nagar, Dubba,
Nizamabad & another.

.....Petitioners

And

K. Narsimhulu S/o.Shivaram,
Aged about 67 yrs, Occu : Agriculture,
R/o.Lakshmapur, Shamirpet Mandal,
Ranga Reddy District.

.....Respondent



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Respondent/Plaintiff instituted suit in O.S.No.360 of 2002 for specific performance on the file of Junior Civil Judge, Medchal. Petitioners/defendants herein remained *ex parte* and the suit was decreed on 20.03.2003. Seeking execution of the decree, plaintiff filed E.P.No.29 of 2004. There on sale deeds were registered in favour of the plaintiff on 28.01.2006.

2. While so, petitioners filed I.A.No.2593 of 2008 on 27.11.2007 under Section 5 of the Limitation Act, seeking condonation of delay of 1678 days in filing petition to set aside the *ex parte* decree dated 20.03.2003. The said application was considered and by order dated 14.09.2010, the trial Court dismissed the same. The trial Court also held that petitioners were not diligent in prosecuting the litigation and that no sufficient cause is shown for condoning the delay and therefore, the delay petition was dismissed. Challenging the same, this revision is filed.

3. Learned counsel for the respondent submit that the plaintiff in turn sold the property to third parties and alleging interference by the petitioners herein the third parties instituted O.S.No.501 of 2007 on the file of Junior Civil Judge, Medchal and that suit was also decreed granting permanent injunction.

4. Perused the record. A copy of the sale deed dated 28.01.2006 is taken on record.

5. As seen from the affidavit filed in support of the petition seeking condonation of delay, it would disclose that petitioners

contend that they came to know about institution of the suit only on 26.11.2007, when they came to the court premises to contact their counsel in O.S.No.501 of 2007.

6. As contended by learned counsel for the respondent summons were served in E.P.No.29 of 2004 and the document was registered in favour of the respondent on 28.01.2006. Therefore, it cannot be said that the petitioners were not aware of institution of suit and decree granted by the trial Court, till they came to the Court premises on 26.11.2007, as sought to be contended. Therefore, I do not see any reason to interfere with the well considered order of the trial Court, more particularly having regard to the fact that the property changed hands and subsequent purchaser also succeeded against the petitioners in an injunction suit. This Civil Revision Petition deserves to be dismissed. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

P.NAVEEN RAO,J

10th August, 2017
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