

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.1266 of 2010

ORDER:

This Civil Revision Petition is filed against the order dated 19.10.2009 passed in IA.No.436 of 2008 in OS.No.142 of 2005, by the IX Additional Chief Judge, City Civil Court, Hyderabad, wherein the Court below dismissed the application filed by the petitioner/defendant to condone the delay in filing the petition to set aside the exparte decree dated 03.07.2007.

When the matter was listed on 03.08.2017 there was no appearance on behalf of the revision petitioner and this Court directed to post the matter next week under the caption 'for dismissal'. Today also there is no representation for the revision petitioner and hence the matter is being taken up for disposal.

Heard Sri Vinod Kumar Deshpande, learned senior counsel appearing for respondent/plaintiff.

As the revision petitioner/defendant failed to file written statement in OS.No.142/2005, in time, the Court below passed order forfeiting the defendant's right to file written statement. Thereafter, the revision petitioner/defendant filed IA.No.864/2006 under Order-9, Rule-7 CPC along with written statement and the Court below allowed the said

petition on 26.10.2006 on payment of costs of Rs.1,000/- and posted the suit to 20.11.2006. But, on 20.11.2006 since costs were not paid, the Court below dismissed IA.No.864/2006 and posted the suit for evidence of respondent/plaintiff and subsequently, passed ex parte decree in the suit on 03.07.2007. After filing of the execution petition by the decree holder, the court ordered notices and at that stage, the petitioner herein, who is the defendant in the original suit, filed the present interlocutory application to condone the delay of 263 days in filing the petition to set aside the ex parte decree dated 3.7.2007. By the impugned order, the court below dismissed the said petition. Hence the revision.

For condoning the delay, the petitioner is required to explain each day's delay. But in the present case, the petitioner has not properly explained the delay. This, in the absence of any proper explanation, cannot be considered as 'sufficient cause' for condoning the delay. The court below, in these circumstances, has rightly found that the petitioner has failed to show sufficient grounds for condoning the delay in filing the petition to set aside the ex parte decree dated 3.7.2007. Further, the Court below also found that the petitioner filed the present IA only after receiving notices in the EP, which shows that he is not diligent in prosecuting the case.

In view of the above, I do not see any infirmity in the impugned order passed by the Court below and the revision is devoid of merits and the same is accordingly dismissed. No costs. As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER REDDY, J

31.08.2017
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