

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

**C.R.P.M.P.Nos.5785, 5786 & 5787 of 2012 AND
8853 & 8854 of 2017 IN/AND C.R.P.No.2970 OF 2006**

Dated:20.12.2017

Between:

V. Venkatesu, S/o. V. Vajravelu,
Hindu, aged 35 years, R/o.D.No.12/547,
Krishnadevaraya Nagar, Tirupati,
Chittoor District

.. Petitioner

And

D. Subramanyam Raju, S/o. Ganga Raju,
Hindu, aged about 52 years, Employee,
R/o.S.V. Puram, Bathalavarikandriga
Village, Vadamalapet Mandal,
Chittoor District

.. Respondent



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

**C.R.P.M.P.Nos.5785, 5786 & 5787 of 2012 AND
8853 & 8854 of 2017 IN/AND C.R.P.No.2970 OF 2006**

COMMON ORDER:

Heard learned counsel for the petitioner and learned counsel for respondents 2 and 3.

2. Petitioner herein is plaintiff. He filed O.S.No.33 of 2003 seeking to grant specific performance of agreement of sale dated 11.12.1998. According to him, he paid an amount of Rs.1,00,000/- on 09.11.2000 and he was required to pay balance sale consideration of Rs.40,000/- on or before 30.03.2002 and as the defendant refused to execute regular registered sale deed, he was compelled to institute the suit. By judgment dated 15.04.2005, suit was decreed and plaintiff was granted two months time to deposit the balance sale consideration. The said amount was not deposited within the time granted. Petitioner filed I.A.No.270 of 2005 under Sections 148, 149 and 151 C.P.C. praying to grant two months time to pay the balance sale consideration. In the affidavit filed in the support of the said petition, petitioner stated that he met with an accident and could not move due to fracture in leg and therefore he required some more time. The relief as sought by the petitioner was granted and time was extended till 09.03.2006. On 09.03.2006, petitioner filed another petition seeking extension of time by one month. The said petition was dismissed by order dated 17.03.2006. Aggrieved thereby, the present revision is preferred.

3. As per the condition in the decree, petitioner/plaintiff was required to deposit balance sale consideration within a period of

two months from the date of decree. However, the time was enlarged till 09.03.2006. In other words, plaintiff was granted nine months time to deposit the balance sale consideration. However, he did not deposit the amount and sought for extension of time by one more month. By the time the present revision is preferred, the extension of time sought was already over and no further enlargement is sought.

4. By order dated 10.07.2006, this Court ordered notice before admission. The matter underwent several adjournments. During the pendency of the revision, the sole defendant died. Therefore, C.R.P.M.P.Nos.5785, 5786 and 5787 of 2012 are filed to condone the delay of 1160 days in filing the legal representatives petition, to bring the legal heirs of the deceased defendant on record and to set aside the abatement order. Notices on respondents 2 and 3 were issued on 10.09.2012. Matter underwent adjournments for filing proof of service. On 29.03.2016, when the case was taken up, the Court was informed that notices were not served and further time was sought to take out personal notice. While granting permission to take out notices through registered post with acknowledgement due, the Court ordered that failing to file proof of service, the petitions and revision should stand dismissed against respondents 2 and 3 without reference to the Court. So far notices are not served. Petitioner/plaintiff has now come out with two petitions i.e., C.R.P.M.P.Nos.8853 and 8854 of 2017 seeking condonation of delay in filing the restoration petition and to set aside the dismissal order dated 29.03.2016 and to restore the revision against the 3rd respondent. However, the record would disclose that notice was not served even against the 2nd respondent but no applications

are filed. When the same was pointed out by this Court on 11.12.2017, learned counsel for the petitioner stated that notice was served on the 2nd respondent and requested time to place on record the proof of service of notice on the 2nd respondent. However, no such proof is filed.

5. Thus, so far notices on respondents 2 and 3 are not served and the abatement order is not set aside. In view of the order passed by the Court on 29.03.2016, no proceedings are pending before this Court. It is also relevant to note at this stage that in the petition against which this revision is preferred, the plaintiff sought enlargement of time by one month to pay balance sale consideration and time expired by 08.04.2006. Thus, even if these petitions are ultimately allowed, it would only amount to granting an order of extension as sought for in the I.A. which expired by 08.04.2006. It is not in dispute that by 08.04.2006, the balance sale consideration was not deposited. Therefore, no useful purpose would be served in restoring the revision and considering the same.

6. In view of the same, all the Miscellaneous Petitions are dismissed. Consequently and as per the earlier conditional order of this Court dated 29.03.2016, the Civil Revision Petition stands dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this Civil Revision petition shall stand closed.

P. NAVEEN RAO, J

Date: 20.12.2017

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