

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No. 4308 OF 2017

DATED 01ST SEPTEMBER, 2017

Between:

Marapudi Praveen Kumar ... Petitioner

AND

S.Papa Rao (died) and another ... Respondents

Counsel for the petitioner : Smt. K.Lalitha

Counsel for the respondents : ---



THE COURT MADE THE FOLLOWING

ORDER:

This civil revision petition arises out of order dated 16-06-2017 in I.A.No. 197 of 2017 in O.S.No. 236 of 2013 on the file of the Court of Principal Senior Civil Judge at Gajuwaka (for short, 'the Court below').

2. I have heard Ms. Prameela, learned counsel, representing Smt. K.Lalitha, learned counsel for the petitioner, and perused the record.

3. The petitioner filed the aforementioned suit for recovery of money. The suit was earlier referred to Lok Adalat for compromise but on the failure of compromise effort, the same was sent back to the Court below. On 01-05-2015, the suit was dismissed for default as no one represented the petitioner before the Court below. The petitioner thereafter filed I.A.No. 197 of 2017 under Section 5 of the Limitation Act, 1963 (for short, 'the Act') for condonation of delay of 661 days in filing the application for restoration of the suit. In the affidavit filed in support of the application, the petitioner stated that he suffered a serious accident, due to which he was bedridden for ten months. In the counter affidavit, the respondent stated that she was set *ex parte* on 07-11-2013 and after more than three adjournments, the suit was dismissed for default on 26-03-2014; that I.A.No. 127 of 2015 filed by the petitioner under Section 5 of the Act for condoning the delay of 352 days was allowed and the suit was restored to file and that after restoration of the suit, the case was posted to 19-03-2015 and the same was adjourned to 10-04-2015 and 01-05-2015. That as the petitioner was continuously absent, the case was dismissed on the last mentioned date *i.e.* 01-05-2015.

4. From the averments made in the affidavit filed in support of the petitioner's application, it is evident that he has not indicated the date on which he suffered

accident. As rightly observed by the Court below, the petitioner has not filed a scrap of paper in support of his plea that he has suffered accident and been hospitalized for ten months. If the petitioner has suffered such a major accident, there would have been copious medical record. Except his *ipse dixit*, no material was produced in support of his plea that the petitioner has suffered accident. Considering the fact that the petitioner has been a chronic absentee with regard to judicial proceedings and he has not learnt lessons from the past experience of dismissal of the suit for default and its restoration and in the absence of any material to substantiate his plea of the alleged accident, the Court below is justified in dismissing the application for condonation of delay. Hence, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

5. As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No. 5664 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

Date: 01-09-2017.

JSK