

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No.2433 of 2017

ORDER ::

This civil revision petition is filed against the order dated 20-01-2017 passed in IA No.1319 of 2014 in OS No.16 of 2000 by the Principal Junior Civil Judge, Karimnagar, allowing the said IA and condoning the delay of 269 days in filing application to set aside the ex-parte decree dated 20-12-2013, on payment of costs, payable to the plaintiff-petitioner herein.

2. Learned counsel for the petitioner strenuously contended that the Court below ought not to have allowed the application and condoned the delay of 269 days, as initially when the plaint filed along with the suit was returned, it was called in question in this Court in CRP No.742 of 2002 and pursuant to certain directions given by this Court, the plaint was re-submitted and the 1st defendant-1st respondent herein was aware of the proceedings. It is also stated that 1st defendant avoided to receive summons sent on more than one occasion, which necessitated the Court to order for substituted service of notice and, therefore, after perusing the evidence adduced by the plaintiff, ex-parte decree was passed as such, the impugned order is liable to be set aside.

3. The suit is filed by the plaintiff-1st respondent herein to declare her as the legally wedded wife of one late Polsa Kishtaiah and also entitled to receive his family pension. Similar claim is also made by the 1st defendant. In the above IA, it is the case of the 1st defendant that after re-submitting the plaint, pursuant to the directions in the above said CRP, no notice was served on her and, therefore, she was not aware of the suit proceedings as

also the ex-parte decree. It is settled proposition of law that in matters of condonation of delay, in a catena of decisions, the Supreme Court observed that where sufficient cause is shown, refusal to condone the delay would result foreclosing a suitor from putting forth his cause and there is no presumption that delay in approaching the Court is always deliberate. In this case, the explanation for the delay set up by the 1st defendant is found to be sufficient by the trial Court in exercise of its discretion, and such a discretion exercised by the Court cannot be interfered unless it is pointed out perversity in passing such an order. In the circumstances, I do not see any reason to interfere with the impugned order and the civil revision petition is accordingly dismissed. However, as the suit is of the year 2000, it is expedient that the trial Court dispose of the suit as early as possible, not later than six months from the date of receipt of a copy of this order. Miscellaneous petitions, if any pending in this case shall also stand dismissed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Dated: 16-06-2017
NRG

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